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Senate

The Senate met at 9:36 a.m. and was called to order by the Honorable MITCH MCCONNELL, a Senator from the State of Kentucky.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, our God, the heavens declare Your glory and the firmament shows Your handiwork. Give us today the faith and willingness to follow You with faithfulness. Thank You for revealing Yourself to us and the wonders of Your creation. Reveal to us creative ways to contribute to Your purposes.

Sustain our Senators in their work. Remind them that true prayer is more than words; it is acting in Your name. Lead them to a commitment to continue Your liberating thrust in our world. Use them to unshackle captives and to lift heavy burdens.

Help us all to follow the narrow path of service. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MITCH MCCONNELL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 16, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MITCH MCCONNELL, a Senator from the State of Kentucky, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. MCCONNELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ISAKSON). Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Chair recognizes the distinguished acting majority leader.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning we will have a period of morning business for up to 30 minutes and then resume consideration of the motion to proceed to S. 2271, the USA PATRIOT Act Reauthorizing Amendments Act.

As a reminder, at 10:30 this morning we will have a cloture vote on the motion to proceed to that bill. As under the previous order, if cloture is invoked, we will proceed immediately to the bill itself. We still have a number of items to complete before next week's recess. The leader will have more to announce on the schedule later in the day.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

The Senator from Georgia is recognized.

USA PATRIOT ACT

Mr. ISAKSON. Mr. President, within the hour, we will cast our votes on whether to proceed on the debate on the extension of the PATRIOT Act, which I intend to vote for, both to proceed and then finally for that act.

I rise this morning to reflect on my strong support for the PATRIOT Act and also express some of my frustration with those who have questioned its use with regard to our civil liberties.

I was born in the United States of America in 1944. I am 61 years old. The inalienable rights endowed by our Creator that our forefathers built this Government on, of life and liberty and the pursuit of happiness, have been the cornerstones of my life. They are the foundation of all our civil liberties. They allowed me to pursue a business career, a marriage, the raising of a family, the educating of children, and allowed me to proceed to the highest office I could have possibly ever imagined: a Member of the Senate. Because of God's blessings and the blessings of this country, last week I was blessed with two grandchildren, born 61 years after I was but into a country that still is founded on the cornerstones of the great civil liberties of life, liberty, and the pursuit of happiness.

But Sarah Katherine and Riley Dianne, my two granddaughters, were born into a totally different world—the same country but a different world.

Today, terror is our enemy, and it uses the civil liberties that we cherish to attempt to do us harm; in fact, to destroy us. In fact, the freedom of access to communication, to employment, to travel, even to our borders, are the tools and the weapons of those who would do our civil liberties harm and in fact take them away. Because of this, do we give up our civil liberties? Absolutely not. But because of this, we must watch, listen, and pursue our enemies with the technologies of the 21st century. The PATRIOT Act does not threaten our civil liberties. It is our insurance policy to preserve them.

We obviously must be diligent with anything we give Government, in terms of a tool or a power to communicate or to watch or to surveil. But do we turn our back on everything we cherish and that has made us great out of fear we might lose it when, in fact, it is our obligation to protect it? We are in the ultimate war between good and evil. Our enemy today, terror, is unlike any enemy we have ever had. All our previous enemies wanted what we had—our resources, our wealth, our ingenuity, our entrepreneurship, our natural resources, our money, our wealth. Terror doesn't want that. Terror doesn't want what we have. Terror doesn't want us to have what we have. They don't want me to be able to speak freely in this body and speak my mind, or my constituents in Georgia to do the same, even if what they say is diametrically opposed to me. They don't want me to freely carry a weapon and defend myself. They don't want a free press that can publish and write its opinion. They don't want any of the inalienable rights and the guarantees and the civil liberties that we have because they know it stands against the tyranny and the control and the suppression that their radical views have brought to a part of the world.

This place you and I call home and the rest of the world calls America is a very special place. You don't find anybody trying to break out of the United States of America. They are all trying to break in. And they are for a very special reason. The civil liberties and the guarantees of our Constitution and the institutions that protect our country—the reasons that you and I stand here today.

While I respect the dissent of any man or woman in this Chamber about the PATRIOT Act, I regret that we have delayed our ratification of the single tool that turned us around post-9/11, in terms of our ability to protect our shores and our people.

I remind this Chamber and everyone who can listen and hear what I am saying that when the 9/11 Commission reviewed all that went wrong prior to 9/11, it recognized that what went right post-9/11 was the passage of the PATRIOT Act. It acknowledged, without our ability to connect the dots, we could not protect the country.

Once again, I cherish our civil liberties. I see the PATRIOT Act not as a threat to them but an insurance policy to protect them. As we go to a vote in less than an hour, I encourage every Member of the Senate to vote to proceed and then debate, as we will, the issues and the concerns. But in the end, we should leave this Chamber, today or tomorrow, sending a message to those who would do us harm and sending a message to those whom we stand here today to preserve and protect, that we will not let any encumbrance stop our pursuit of those who would destroy or injure us, our children or our grandchildren.

At the end, at the age of 61 and with the opportunity to serve in the Senate, the rest of my life will be about those grandchildren. Riley Dianne Isakson and Sarah Katherine Isakson are less than a month old. They have a bright future. The PATRIOT Act is going to ensure that the very civil liberties that will allow them to pursue happiness to its maximum extent will still exist because America did not turn its back or fear our ability to compete in a 21st century of terror with the type of 21st century laws we need to surveil, to protect, and to defend those who would hurt or those who would harm this great country, the United States of America.

I yield the floor.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY

Mr. BOND. Mr. President, I rise to address some troubling information about natural gas, energy, and the prices of energy as well as its availability. This information came from a hearing held in the Air subcommittee of the EPW Committee last week, and I think it is of sufficient importance to all Members and all States in the Nation that I rise to speak to my colleagues about it.

We all know that American families and workers are suffering from high energy costs. They will suffer even more if we do not balance our environmental concerns with their energy needs. That is why the hearing held last week in the Air subcommittee is all the more important. If we fail to heed the warning our families and workers are sending us about high energy costs and their lost jobs, their lost incomes, their lost standards of living, then we risk doing even more harm.

The people I am talking about include manufacturing workers who used to make chemicals, plastic products, automobile parts or fertilizer. Many of them are now out of work because their employer moved to a foreign country with cheaper natural gas prices.

The pain, obviously, doesn't stop with workers. Families suffer from lost wages. Most of those who are lucky enough to get a new job will be working for lower wages. Does that mean that those wages have to move even lower? Do they have to live with a broken-down car even longer?

In addition, seniors on fixed incomes are particularly vulnerable to high natural gas prices. Across the Midwest, indeed across the country, many depend on natural gas to heat their homes in the winter and cool their homes in the summer. What do we tell them: Wear a coat inside during the winter and turn on a fan during the summer? We all know of the tragedies that hit our seniors in summer heat waves. What do we tell their families?

Some have said we should tell our workers and their families that we are going to hurt them even more in order to fight climate change. We will pass proposals to cap carbon emissions which, by the way, will raise energy prices even more. For some, I guess today's energy prices are not high enough. Some are willing to drive power and heating bills even higher in their fight against global warming. Some do not care that there are no technologies currently available to capture and store carbon dioxide. But they are working on finding those. We are not there yet.

Some are willing to stop using cheap and abundant fuels, such as coal, and force ourselves to use only the expensive and very limited supply of natural gas. Every year, recently, we have had an opportunity to vote on the McCain-Lieberman proposal. Every year we hear about how it will deliver a $100 billion hit or more to the economy. Thankfully, every year the Senate kills this job killer.

Last year, as part of the Energy bill debate, we passed a sense of the Senate stating support for climate change strategies that did not hurt the economy. I think we can all agree with that. It sounds simple, but as we consider the ''McCain-Lieberman lite'' proposals, we have to look at whether a second generation of proposals will actually spare our families and workers from more pain.

Since we still do not have the technologies to capture and store carbon, they will present other dubious arguments. Some will pin their hopes on projections that future natural gas prices will fall from triple historic levels, where they are now, to only double historic levels, where they were a few years ago. This will somehow make carbon caps affordable.

Not only do I doubt that natural gas prices will return to historic lows, States represented by Members advocating these proposals are actively trying to block actions necessary to increase natural gas supply and get prices down. Government natural gas projections, which we found very dubious, include a prediction that natural

gas prices will fall in the coming decades. However, that prediction depends upon liquefied natural gas imports rising by 600 percent by 2030, a sixfold increase in LNG imports. I find such hopes mind-boggling. How could we increase LNG imports by 600 percent at the same time we have coastal States from Maine, Massachusetts, Rhode Island, Connecticut, and Delaware opposing or blocking LNG terminals?

By the way, these Northeastern States blocking natural gas imports through their States are the very ones proposing we punish Midwestern States using coal by forcing them to switch to natural gas to make electricity—the natural gas that they will not allow us to get through LNG.

Others who claim carbon caps will be affordable, pin their hopes on rosy economic analyses that say we can buy our way out of the problem. They propose, instead of cutting carbon emissions, powerplants will be able to purchase, hopefully, cheap credits from others who, hopefully, cut their own carbon emissions elsewhere.

They are running models from MIT, Stanford, and Harvard that say the price of buying carbon cuts in other countries will be cheaper than forcing U.S. powerplants to reduce their own carbon emissions. I can't dispute these are smart people, but I wonder if they are reading the newspaper. Their models show a ton of carbon cuts costing just over $1 a ton. At that price, they say it would be affordable. Unfortunately, last week the price to purchase a ton of carbon reductions was $31. You do not have to be from Harvard to do that math. That is 31 times more expensive. Do we believe that the cost of carbon credits will drop by 97 percent after we impose our own cap, when you see the increasing demand for energy from India and China? That I do not believe is likely.

Europe's system to cap carbon is certainly in a shambles. European countries are failing miserably to meet their Kyoto carbon-cut requirements. Thirteen of the fifteen original EU signatories are on track to miss their 2010 emissions targets—by as much as 33 percent in Spain and 25 percent in Denmark. Talks to discuss further cuts beyond that, when Kyoto expires, have only produced agreement to talk further. It sounds similar to the Senate these days. We can talk well, but doing things is difficult.

If Europe is, for all practical purposes, ignoring their Kyoto carbon commitments and there is no agreement to continue with carbon caps after Kyoto, how can we expect the creation of enough credits? In the alternative, if Europeans suddenly decide to rush and meet their commitments by buying up massive amounts of credits to meet their shortfalls, how will there be enough credits for a U.S. demand bigger than all of Europe combined?

While these questions are complicated, their consequences are simple. A mistake on our part could add significantly to the misery of our manufacturing workers. A mistake on our part will add to the hardships families face paying their heating and power bills. And one more thought: Iran and Saudi Arabia are furiously busy expanding their petrochemical industry, based upon their vast supplies of natural gas.

I ask unanimous consent an article on that subject be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. This means that not only more cheap foreign chemicals, but it means potentially more closed U.S. plants. We must also ask whether we want to add to our oil addiction a new chemical dependency on Iraq, Iran, and the Middle East.

Before we make any hasty decisions, I believe we must have answers to these questions, and we must answer these questions as we begin to debate further carbon cap proposals.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[From MEHRNEWS.com, Jan. 2, 2006]

IRAN STRIVING TO RANK FIRST IN ETHYLENE PRODUCTION

Iran plans to be number one in producing ethylene in the world—reaching 12 million tons output within the next 10 years—by allocating 17.5 billion dollars in investment for development of petrochemical projects in the Fourth Five-Year Development Plan (2005–2010).

The figure stood around 12.5 billion dollars for the first to third development plans (1990–2005) in total.

Out of the 25 projects under implementation, the National Petrochemical Company (NPC) have completed 17 and would finish the rest soon, said Hassan Sadat, manager of plans in the NPC.

NPC plans to have an output of 25.6 million tons capacity by March 2010 jumping up from 7.3 million tons in 1999, he added.

The investment in the sector is forecast to increase by 40 percent in the fourth plan.

Sadat said that the output of polymers would reach 10 million tons within the next 10 years. The production of chemical fertilizers, methanol, and aromatic materials would increase to 8 million tons each. NPC has estimated that the country earns some 20 billion dollars from export of petrochemicals only by the date.

At present, nearly 52,000 employees work in petrochemical sector that enjoys modern technologies such as ABS, PET—PAT, engineering polymers, isocyanides, DME, and acetic acid.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I yield the remaining time in morning business on our side.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2271, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of S. 2271, a bill to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 10:30 is equally divided between the two leaders or their designees.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Madam President, the upcoming cloture vote on the motion to proceed to S. 2271, introduced by my friend Senator SUNUNU, is the first opportunity for my colleagues to go on record on whether they will accept the White House deal on PATRIOT Act reauthorization. Back in December, 46 Senators voted against cloture on the conference report. I think it's clear by now that the deal makes only minor changes to that conference report. The Senator from Pennsylvania, chairman of the Judiciary Committee and primary proponent of the conference report in this body, was quoted yesterday as saying that the changes that the White House agreed to were ''cosmetic.'' And then he said, according to the AP, ''But sometimes cosmetics will make a beauty out of a beast and provide enough cover for senators to change their vote.''

The Senator from Alabama said on the floor yesterday: ''They're not large changes, but it made the Senators happy and they feel comfortable voting for the bill today.'' I agree with both of my adversaries on this bill that the changes were minor and cosmetic. I explained that at length yesterday, and no one else other than Senator SUNUNU came down to the floor to defend the deal.

Some of my colleagues have been arguing, however, that we should go along with this deal because the conference report, as amended by the Sununu bill, improves the PATRIOT Act that we passed 4½ years ago.

It's hard for me to understand how Senators who blocked the conference report in December can now say that it's such a great deal. It's not a great deal—the conference report is just as flawed as it was 2 months ago. No

amount of cosmetics is going to make this beast look any prettier. That said, let me walk through some of the provisions of the conference report that are being touted as improvements to the original PATRIOT Act.

First, there's the issue that was the linchpin of the bill the Senate passed without objection in July of last year, that of course is the standard for obtaining business records under Section 215. Section 215 gives the Government extremely broad powers to secretly obtain people's business records. The Senate bill would have required that the Government prove to a judge that the records it sought had some link to suspected terrorists or spies or their activities. The conference report does not include this requirement. Now, the conference report does contain some improvements to section 215, at least around the edges. It contains minimization requirements, meaning that the executive branch has to set rules for whether and how to retain and share information about U.S. citizens and permanent residents obtained from the records. And it requires clearance from a senior FBI official before the Goverment can seek to obtain particularly sensitive records like library, gun and medical records. But the core issue with section 215 is the standard for obtaining these records in the first place.

Neither the minimization procedures nor the high level signoff changes the fact that the Government can still obtain sensitive business records of innocent, law-abiding Americans. The standard in the conference report—''relevance''—will still allow Government fishing expeditions. That is unacceptable. And the Sununu bill does not change that.

Next, let me turn to judicial review of these section 215 orders. After all, if we are going to give the Government such intrusive powers, we should at least let people go to a judge to challenge the order. The conference report does provide for this judicial review. But it would require that the judicial review be conducted in secret, and that Government submissions not be shared with the challenger under any circumstances, without regard for whether there are national security concerns in any particular case. This would make it very difficult for a challenger to get meaningful judicial review that comports with due process.

And the Sununu bill does not address this problem.

What we have are very intrusive powers, very limited judicial review—and then, on top of it, anyone who gets a section 215 order can't even talk about it. That's right—they come complete with an automatic, indefinite gag order. The new ''deal'' supposedly allows judicial review of these gag orders, but that's just more cosmetics. As I explained yesterday, the deal that was struck does not permit meaningful judicial review of these gag orders. No judicial review is available for the first year after the 215 order has been issued. Even when the right to judicial review does finally kick in, the challenger has to prove that the Government acted in bad faith. We all know that is a virtually impossible standard to meet.

The last point on section 215 is that the conference report, as amended by Sununu bill, now explicitly permits recipients of these orders to consult with attorneys, and without having to inform the FBI that they have done so. It does the same thing with respect to national security letters. This is an important clarification, but keep in mind that the Justice Department had already argued in litigation that the provision in the NSL statute actually did permit recipients to consult with lawyers. So this isn't much of a victory at all. Making sure that recipients don't have to tell the FBI if they consult a lawyer is an improvement, but it is a minor one.

Next let's turn to national security letters or NSLs. These are the letters that the FBI can issue to obtain certain types of business records, with no prior court approval at all.

The conference report does provide for judicial review of NSLs, but it also gives the Government the explicit right to enforce NSLs and hold people in contempt for failing to comply, which was not previously laid out in the statute. In stark contrast to the Senate bill, the conference report also would require that the judicial review be conducted in secret and that Government submissions not be shared with a challenger under any circumstances without regard to whether there are national security concerns in any particular case. So just like the section 215 judicial review provision, this will make it very difficult for challengers to be successful. Again, the Sununu bill does not address this problem.

Of course, NSLs come with gag orders, too. The conference report addresses judicial review of these gag orders, but it has the same flaw as the Sununu bill with regard to judicial review of the section 215 gag rule. In order to prevail, you have to prove that the Government acted in bad faith, which, again, would prove to be virtually impossible. The Sununu bill does not modify these provisions at all.

Let me make one last point on NSLs. The Sununu bill contains a provision which states that libraries cannot receive an NSL for Internet records unless the libraries provide ''electronic communication services'' as defined by statute. But that statute already applies only to entities that satisfy this definition, so this provision is essentially just restating existing law. It is no improvement at all. Those cosmetics wear pretty thin when you look closely at this deal.

Let's turn to sneak-and-peek search warrants. As I laid out in detail yesterday, the conference report takes a significant step back from the Senate bill by presumptively allowing the Government to wait an entire month to either notify someone that agents secretly searched their home or to get approval from a judge to delay the notice even longer. The Senate said it should be 1 week. I have yet to hear any argument at all, even in direct debate from the Senator from Alabama, much less a persuasive argument, why that amount of time is insufficient for the Government.

The core fourth amendment protections are at stake. This is not like flipping a coin: Let's make it 7 days; no, make it 30 days. This involves people coming into somebody's house without their knowledge and how long that should be allowed without telling them you were in their house. Once again, the Sununu bill does nothing to address this issue.

Let me talk briefly about roving intelligence wiretaps under section 206 of the PATRIOT Act. We have not discussed this issue much, in part because the conference report does partially address the concerns raised about this provision. But the conference report language is still not as good as the Senate bill was on this issue. Unlike the Senate bill, the conference report does not require that a roving wiretap include sufficient information to describe the specific person to be wiretapped with particularity. The Sununu bill does not address this problem.

Supporters of the conference report say it contains new 4-year sunsets for three provisions: section 206, section 215, and the so-called lone wolf expansion of the Foreign Intelligence Surveillance Act that passed as a part of the intelligence reform bill in 2004. We agree, I am sure, that sunsets are not enough. This reauthorization process is our opportunity to fix the problems of the PATRIOT Act. Just sunsetting bad law again is hardly a real improvement. Of course, neither the conference report nor the Sununu bill contains a sunset for the highly controversial national security letter authorities which were expanded by the PATRIOT Act, even though many of us said back in December that was a very important change we wanted to see made.

I have the same response to those who point to the valuable new reporting provisions in the conference report: We must make substantive changes to the law, not just improve oversight.

I have laid out at length the many substantive reasons to oppose the deal. But there is an additional reason to oppose cloture on the motion to proceed; that is, it appears the majority leader is planning to prevent Senators from offering and getting votes on amendments to this bill.

I was on the Senate floor for 9 hours yesterday. I was not asking for much, just a guarantee that once we moved to proceed to the bill I could offer and get votes on a handful of amendments relavant to the bill. There was a time—in fact, I was here—when Senators did not have to camp out on the floor to plead for the opportunity to offer

amendments. In fact, offering debate and voting on amendments is what the Senate is supposed to be all about. That is how we craft legislation. But my offer was rejected.

It appears as if the other side may try to ram this deal through without a real amending process. I hope that even colleagues who may support the deal will oppose such a sham process. It makes no sense to agree to go forward without a guarantee that we will be allowed to actually try to improve the bill. It is a discourtesy to all Senators, not just me, to try to ram through controversial legislation without the chance to improve it.

In sum, I oppose the sham legislative process the Senate is facing, and I oppose the flawed deal we are being asked to ratify. Notwithstanding the improvements achieved in the conference report, we still have not adequately addressed some of the most significant problems of the PATRIOT Act. I must oppose proceeding to this bill which will allow this deal to go forward. I cannot understand how anyone who opposed the conference report back in December can justify supporting it now. The conference report was a beast 2 months ago, and it has not gotten any better looking since then.

I urge my colleagues to vote no on cloture. I reserve the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 2271: to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive National Security Letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Bill Frist, James Inhofe, Richard Burr, Christopher Bond, Chuck Hagel, Saxby Chambliss, John E. Sununu, Wayne Allard, Johnny Isakson, John Cornyn, Jim DeMint, Craig Thomas, Larry Craig, Ted Stevens, Lindsey Graham, Norm Coleman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2271, the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 3, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—96

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Menendez
Allen	Durbin	Mikulski
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Obama
Bond	Grassley	Pryor
Boxer	Gregg	Reed
Brownback	Hagel	Reid
Bunning	Harkin	Roberts
Burns	Hatch	Rockefeller
Burr	Hutchison	Salazar
Cantwell	Inhofe	Santorum
Carper	Inouye	Sarbanes
Chafee	Isakson	Schumer
Chambliss	Johnson	Sessions
Clinton	Kennedy	Shelby
Coburn	Kerry	Smith
Cochran	Kohl	Snowe
Coleman	Kyl	Specter
Collins	Landrieu	Stabenow
Conrad	Lautenberg	Stevens
Cornyn	Leahy	Sununu
Craig	Levin	Talent
Crapo	Lieberman	Thomas
Dayton	Lincoln	Thune
DeMint	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden

NAYS—3

Byrd	Feingold	Jeffords

NOT VOTING—1

Vitter

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 3. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

USA PATRIOT ACT ADDITIONAL REAUTHORIZING AMENDMENTS ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the motion to proceed to S. 2271 was agreed to, and the clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2271) to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 2895

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 2895.

Mr. FRIST. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following: This Act shall become effective 1 day after enactment.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2896 TO AMENDMENT NO. 2895

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 2896 to Amendment No. 2895.

Mr. FRIST. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert: Act shall become effective immediately upon enactment.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion on the bill to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2271: to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive National Security Letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes.

Bill Frist, Arlen Specter, Thad Cochran, Richard Burr, Mel Martinez, Jim Bunning, Jon Kyl, Craig Thomas, Mike Crapo, David Vitter, Bob Bennett, Norm Coleman, Michael B. Enzi, Lindsey Graham, Jeff Sessions, Saxby Chambliss, John Cornyn, John Thune.

Mr. FRIST. Mr. President, the actions just taken, coupled with the agreement we came to last night, set out a sequence I will review later today. We will have final passage once we get back from the recess. I am very disappointed in the fact that on a bill I know will pass overwhelmingly, by 90 to 10 or 95 to 5, it has been required of us from the other side of the aisle to be here all day yesterday, today, tomorrow, through the recess, Monday when

we get back, Tuesday when we get back, and final passage on Wednesday morning, when we know what the outcome will be. It bothers me in two regards. First of all, it is a very important piece of legislation. It breaks down and further defines that rough relationship between our law enforcement community and our intelligence community. It is an important tool for the safety and security of the American people and the protection of civil liberties. The bill has been improved and will be overwhelmingly supported.

Secondly, I am disappointed because it means that we effectively have to put off other important business before this body with this postponement and this delay, issues that are important, that are immediate, that need to be addressed. The issue of lobbying reform is underway, and we need to address that on the floor sometime in the near future, such as the issues of LIHEAP and heating, flood insurance, a whole range of bills.

It also plays into what has been this pattern of postponement and delay and obstruction. If you look back at what we finished yesterday, the asbestos bill, we were forced to file cloture on the motion to proceed, which delays, in essence, for 3 days, consideration of that bill. We had debate for a day, with the other side encouraging not to take amendments on that day, allowing 2 days for amendments, but, in effect, spending 2 weeks on a bill on which we could have been moving much quicker.

Another example—I mentioned it last night in closing—is the pensions bill, a bill that passed this body on November 16, 2005, last year, 3 months ago. We asked the Democrats to appoint conferees on December 15 of last year. We renewed that request on February 1. We have been prepared. We have our conferees ready to go. We know what the ratio is, but we still have not been able to send that important bill to conference. In that regard, I wanted to formally, again, make another request, but we absolutely must begin that conference.

UNANIMOUS-CONSENT REQUEST—H. R. 2830

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 357, H.R. 2830, that all after the enacting clause be stricken and the text of S. 1783, as passed by the Senate, be inserted thereof, that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, the Senate insist upon its amendment and request a conference with the House, and the Chair be authorized to appoint conferees at a ratio of 7 to 5.

Mr. REID. Mr President, reserving the right to object, first of all, on the PATRIOT Act, it is very unusual to bring a bill to the floor and allow no amendments.

I understand the history of this legislation. We had a cloture vote, and cloture was not invoked. It was a bipartisan vote that has now been resolved and that Senator SUNUNU has worked hard to bring it to the Senate. I think the majority of the Senate clearly favors this legislation, but Senator FEINGOLD wants to offer amendments. Senator LEAHY wants to offer an amendment.

First of all, we could agree to the motions that are now pending before the Senate on the PATRIOT Act. The so-called filling the tree was used to block Senator FEINGOLD. We could adopt those amendments just like that because they are only date changes and mean very little. They mean nothing, frankly.

We could move every bill quickly here if we had no amendments. The distinguished majority leader is saying we are taking time with these amendments. That is what we do. Senator FEINGOLD has agreed reluctantly, but he agreed, and I appreciate that very much. And Senator LEAHY also agreed that there would be two amendments offered, one dealing with section 215, the other would deal with the so-called gag order. These two amendments would take an extremely limited amount of time to debate. We could vote on them today and finish this legislation. The majority leader has decided not to do that. He filled the tree, and that is his right. We understand that. But I think it is a mistake. I think it sets a bad tone for what we are trying to accomplish.

In regard to the matter before the Senate now, the unanimous consent request, which I will respond to, deals with an important piece of legislation. I acknowledge that, and we need to complete it. It will affect millions of working Americans. The bill has strong bipartisan support. It passed out of here by a vote of 97 to 2. As I reminded the distinguished majority leader off microphone, we in the minority worked very hard to get the bill passed. We eliminated amendments that people wanted to offer. It was a bipartisan effort by virtue of the extremely good vote we had.

We are eager to get to work on producing a conference report that will both strengthen the Pension Benefit Guaranty Corporation and provide certainty to employers who sponsor other types of pensions. The virtual unanimity with which the bill passed the Senate does not mean, however, that there aren't issues that need to be resolved with the House.

We have 13 titles, and it involves many issues, including changing the myriad of rules that guide employers' pension funding requirements, establishes the proper interest rate for employer funding purposes, and for calculating lump-sum distributions paid to departing employees. There are a couple of other provisions, such as it increases premiums of the Pension Benefit Guaranty Corporation, protects older workers who are hurt by changes, the so-called cash balance pension plans, and finally, one of the issues is establishing rules to help employees with 401(k) plans get unbiased investment advice. It expands 401(k) plans to make it easier for employees to be automatically enrolled in these plans so they get better savings for their retirements and changes the rules to protect spousal benefits.

Some of these issues are very technical in nature, and there are very few Senators who understand them because they have worked on them. For example, on our side, Senator HARKIN is an expert, and all of those people on the Labor Committee acknowledge his expertise in one field. Senator MIKULSKI, the ranking member of the subcommittee, is an expert in other areas.

So the point I am making is that the majority has said you will have a conference committee with seven Republicans and five Democrats. I am saying we need eight Republicans and six Democrats. It would allow me to offer somebody who I think is vitally important in allowing a better product to come back from the conference, at least the ability to debate it better.

We are not holding up this pension conference. We are not holding it up. I say the argument is just as easily made that it is being held up by the majority because they refuse to allow us to have 6 members to conference, 6 out of 100, on something that will affect hundreds of millions of Americans. I don't think that is asking too much.

So we are willing to go to conference in 5 seconds, 5 minutes. I have my conferees ready to go. We need six. It may sound easy putting these conference committees together, but it is not. I see on the floor the former majority leader and the former minority leader of the Senate, and Senator FRIST, the present majority leader, is here. They know how difficult these conference committees are. But I have a unique problem on this bill, and I need another Democratic member. So I object, unless the ratio is eight Republicans and six Democrats.

This is not arm wrestling. This doesn't have to show who is the toughest, that we are all going to hang in there, and we are not going to allow this to happen. We are in the minority. We understand that. But we have certain rights also. I don't think it is asking too much to increase the size of this conference. One more Democrat is all we are asking for. In exchange for that, of course, you get another Republican.

So I hope the ratio—the majority will have two extra Republicans on the conference—is something to which the distinguished majority leader will agree.

Mr. LOTT. Reserving the right to object, if I can make a parliamentary inquiry: First of all, did Senator REID ask for a different UC?

Mr. REID. Yes, I did, Mr. President. I ask that the request of the distinguished majority leader be amended to allow an eight-to-six conference, eight Republicans, six Democrats.

Mr. LOTT. Reserving the right to object to that, Mr. President, I hesitate

to tread into these waters because I know how difficult it is to be in the position that these two leaders are in. They have to make tough choices. They have to take into consideration what happens once you get into conference. You have to look at personalities. But frankly, I think seven and five is too big. That is, to me, a pretty large number of Senators to be going to conference. I understand that Senator REID has other Senators who would like to be conferees, and I am sure Senator FRIST has other Senators who would like to be conferees. In fact, most Senators would like to be a conferee on everything, particularly coming out of their committee. That is what this is all about. I wanted to be a conferee on the tax reconciliation bill. I worked on it for a year, but I am not. The leader made the choice to go with two others, and I am off. I am not happy about that, and I have explained it to him. It is called leadership. It is called tough choices.

By the way, this has been hanging around since December 10. I believe that is when our leadership first said: Let's go to conference. I remind my colleagues and our leaders, this is a bipartisan bill. This is a bill that passed the Senate overwhelmingly. This is a bill that passed the House overwhelmingly. But it is a complex area. We need time to work out the difficulties and disagreements on pensions and how it affects aviation. None of it is going to be easy. I would think some Senators might want to take second thoughts about whether to be on this conference because it will be difficult.

But we have a time problem. If we don't appoint these conferees this week in the Senate and the House, we won't be able to begin when we come back, and then another week will be frittered away. When you look at the calendar, we will have something like maybe 25 days to reach an agreement because there is a drop-dead date on this.

First of all, at least two airlines are hanging in the balance of bankruptcy. They could very easily dump their pensions on the PBGC and say we are out of here. They are trying not to do that. They are trying to do the responsible thing for themselves, the taxpayers, and everybody.

Secondly, the reason why April 15 is a very serious date is because that is when the next quarterly payment is due. Within 2 weeks, companies are going to have to make a decision: Do I comply or not? Do I dump my pension on PBGC or do I go into bankruptcy?

We have a time problem. So I know it is not easy, but we need to get this done. I know the leaders have been talking back and forth trying to reach an agreeable number to deal with all this, but I say to my friends, it is time to make a decision, and we all have to understand we don't all get to be conferees. I understand that. I don't like it, but I understand it.

So I object to a larger number for a lot of reasons, and I urge the two leaders to come to a quick agreement. Let's get this done in the next 24 hours. Let's show for the first time this year that we can deal with something, as hard as it may be, in a bipartisan way. So I object.

The PRESIDING OFFICER. Objection is heard to modifying the unanimous consent request. Is there objection to the basic request?

Mr. REID. Mr. President, reserving the right to object, I say to my friend, the junior Senator from Mississippi, this is the first request we have had for a conference. The majority and minority staffs have worked on this. They have made significant headway, and I appreciate the work they have done. The House has not appointed their conferees, and they are certainly not going to today or tomorrow. So I think what we need to do is understand the importance of this and understand that we are ready to go to conference. We are ready to go to conference. It is a question of how many conferees we have.

I hope that my friends on the other side of the aisle would agree that it is important to go to conference and that we move forward as quickly as we can, allowing people from the Finance Committee—this isn't one committee. One reason it is complicated is that there are issues dealing with finance and the HELP Committee. So I object to the distinguished majority leader's request.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. FRIST. Mr. President, the issue is an important one because of the time constraints that were outlined by my colleague from Mississippi. This is something we have to work through. It is pretty simple, pretty straightforward, as my colleague from Mississippi said. We just went through appointing the conferees for the tax reconciliation bill. I had on the floor here a few minutes ago three different people who passionately wanted to be conferees—who worked on it, who deserve to be, yet they are not. Part of leadership is basically saying no. Seven to five is a reasonable number that many people think is too large. Seven to five is what it will be. I am hopeful that over the next few hours we can come to some resolution and appoint conferees. The House is ready to go to conference. We are ready. We asked to go to conference on December 15 of last year, yet we are not to conference.

This is a specific problem. Both the Democratic leader and I have talked about this for days, that we both have challenges, but it is something that is pretty straightforward. The bill has been passed, it is ready to go to conference, is addressing a major problem facing people across America, and we need to address it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may offer an amendment which is at the desk, amendment No. 2892.

Mr. REID. Will the distinguished Senator yield?

Mr. FEINGOLD. I yield to the Senator from Nevada.

Mr. REID. I should have done this. I have people sending me notes. Are we having anymore votes today?

Mr. FRIST. Let's decide within the next hour. With the schedule, I know there is still going to be an effort to offer amendments and the like. Why don't we get together and have some sort of announcement shortly to our colleagues.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent the pending amendment be set aside so I may offer an amendment at the desk, No. 2892.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FEINGOLD. Mr. President, we can obviously see what is going on here when the majority leader offered those two amendments earlier. He was filling the amendment tree. That means he is trying—in fact, he is going to do everything he can, and he will succeed, if he wishes—to refuse to allow Senators to improve this bill. Those amendments are nothing more than meaningless amendments, the amendments he has offered, that have to do with the effective date of the bill. They are nothing other than an attempt to prevent me or any other Senator from trying to amend this legislation.

Not only was this a take-it-or-leave-it deal from the White House, but now the majority leader and perhaps other Senators are apparently afraid of what happens if the Senate actually does its work on this issue and has open votes on the merits of these issues.

I want everyone to know that is the game that is being played here, on a bill that has major implications for the rights and freedom of the American people. Obviously, when the majority leader talks about how urgent it is that this be passed, he is conveniently ignoring the fact that this current law is in effect until March 10, and there is no risk whatsoever that the bill would not be renewed.

I am going to speak for a few minutes about the various amendments I have filed and that the majority leader is preventing me from offering.

AMENDMENT NO. 2892

Amendment No. 2892 is the amendment that would implement the standard for obtaining section 215 orders that was in the Senate bill the Judiciary Committee approved by a vote of 18 to 0 and that was agreed to in the Senate without objection. I hope my colleagues remember that. When the majority leader fills the tree, he is not preventing some type of esoteric amendments nobody has ever seen or heard of. Every member of the Judiciary Committee already voted for that

very provision and no Senator in the entire Senate, including the majority leader, objected to that being in the Senate bill. So this is not some kind of a last-minute deal. This is something the majority leader himself never objected to. It is a reasonable amendment that every Senator in one way or another has basically supported.

Of all the concerns that have been raised about the PATRIOT Act since it was passed in 2001, this is the one that has received the most public attention, and rightly so. This is the one that is often referred to as the ''library provision.'' A reauthorization bill that doesn't fix this provision, in my view, has no credibility.

Section 215 of the PATRIOT Act allows the Government to obtain secret court orders in domestic intelligence investigations to get all kinds of business records about people, including not just library records, but also medical records and various other types of business records. The PATRIOT Act allowed the Government to obtain these records as long as they were ''sought for'' a terrorism investigation. That is a very low standard. It didn't require that the records concern someone who was suspected of being a terrorist or spy, or even suspected of being connected to a terrorist or spy. It didn't require any demonstration of how the records would be useful in the investigation. Under section 215, if the Government simply said it wanted records for a terrorism investigation, the secret FISA court was required to issue the order—period. To make matters worse, recipients of these orders are also subject to an automatic gag order. They cannot tell anyone that they have been asked for records.

Because of the breadth of this power, section 215 became the focal point of a lot of Americans' concerns about the PATRIOT Act. These voices came from the left and the right, from big cities and small towns all across the country. So far, more than 400 State and local government bodies have passed resolutions calling for revisions to the PATRIOT Act. And nearly every one mentions section 215.

The Government should not have the kind of broad, intrusive powers that section 215 provides—not this Government, not any government. The American people shouldn't have to live with a poorly drafted provision that clearly allows for the records of innocent Americans to be searched, and just hope that Government uses it with restraint. A Government of laws doesn't require its citizens to rely on the good will and good faith of those who have these powers—especially when adequate safeguards can be written into the laws without compromising their usefulness as a law enforcement tool. Not one of the amendments I am offering would threaten the ability of law enforcement to do what is needs to do to investigate and prevent terrorism.

After lengthy and difficult negotiations, the Judiciary Committee came up with language that achieved that goal. It would require the Government to convince a judge that a person has some connection to terrorism or espionage before obtaining their sensitive records. And when I say some connection, that's what I mean. The Senate bill's standard is the following: No. 1, that the records pertain to a terrorist or spy; No. 2, that the records pertain to an individual in contact with or known to a suspected terrorist or spy; or No. 3, that the records are relevant—just relevant—to the activities of a suspected terrorist or spy. That's the three-prong test in the Senate bill and I think it is more than adequate to give law enforcement the power it needs to conduct investigations, while also protecting the rights of innocent Americans. It would not limit the types of records that the Government could obtain, and it does not go as far to protect law-abiding Americans as I might prefer, but it would make sure the Government cannot go on fishing expeditions into the records of innocent people.

The conference report did away with this delicate compromise. It does not contain the critical modification to the standard for section 215 orders. The Senate bill permits the Government to obtain business records only if it can satisfy one or more prongs of the three-prong test. This is a broad standard with a lot of flexibility. But it retains the core protection that the Government cannot go after someone who has no connection whatsoever to a terrorist or spy or their activities.

The conference report replaces the three-prong test with a simple relevance standard. It then provides a presumption of relevance if the government meets one of the three-prongs. It is silly to argue that this is adequate protection against a fishing expedition. The only actual requirement in the conference report is that the Government show that those records are relevant to an authorized intelligence investigation. Relevance is a very broad standard that could arguably justify the collection of all kinds of information about law-abiding Americans. The three-prongs now are just examples of how the Government can satisfy the relevance standard. That is not simply a loophole or an exception that swallows the rule. The exception is the rule, rendering basically meaningless the three-prong test that we worked so hard to create in the Senate version of the bill.

This issue was perhaps the most significant reason that I and others objected to the conference report. So how was this issue addressed by the White House deal to get the support of some Senators? It wasn't. Not one change was made on the standard for obtaining section 215 orders. That is a grave disappointment. The White House refused to make any changes at all. Not only would it not accept the Senate version of section 215, which, no member of this body objected to back in July—including the majority leader—it wouldn't make any change in the conference report on this issue at all.

So today I offer an amendment to bring back the Senate standard on section 215. It simply replaces the standard in the conference report with the standard from the Senate bill. I urge my colleagues to support this change, which we all consented to 6 months ago, and which was one of the core issues that many of us stood up for in December when we voted against cloture on the conference report.

I know that some will say they must oppose this amendment because it would disrupt a delicate agreement that has been achieved with the White House. I disagree. There is no reason we can't reauthorize the PATRIOT Act and fix section 215—in fact, there is every reason we should do so. This body has expressed its strongly held views on this issue before, and it should do so again. If this issue went to a vote in the House I'm confident we would have strong support because the House has already indicated a willingness to modify section 215 to protect the privacy of innocent Americans. That is the first amendment I wanted to offer. Let me next turn to amendment No. 2893.

AMENDMENT NO. 2893

The second one is amendment No. 2893. This amendment would ensure that recipients of business records orders under section 215 of the PATRIOT Act and recipients of national security letters can get meaningful judicial review of the gag orders that they are subject to.

Recipients of both section 215 orders and national security letters are subject to automatic, indefinite gag orders. This means both that a recipient cannot tell anyone what the section 215 order or NSL says, and that the recipient can never even acknowledge that he or she received a section 215 order or NSL. Now I understand there may very well be a need to protect the confidentiality of these business records orders and NSLs in many cases, particularly with regard to the identity of the people whose records they seek. But I do not understand why even the fact of their existence must be a secret, forever, in every case. Even classified information can undergo declassification procedures and ultimately become public, when appropriate.

So I think that meaningful judicial review of these gag orders is critically important. In fact, these automatic, permanent gag rules very likely violate the first amendment. In litigation challenging the gag rule in one of the national security letter statutes, two courts have found first amendment violations because there is no individualized evaluation of the need for secrecy.

So what does the reauthorization package do about this serious problem? Under the conference report, as modified by the Sununu bill, recipients would theoretically have the ability to challenge these gag orders in court, but

the standard for getting the gag orders overturned would be virtually impossible to meet. It is not the meaningful judicial review that the sponsors of the SAFE Act and so many others have been calling for.

Let me start with the NSL provision of the conference report. In order to prevail in challenging the NSL gag order, the recipient would have to prove that any certification by the Government that disclosure would harm national security or impair diplomatic relations was made in bad faith.

There would be what many have called a ''conclusive presumption'' the gag order stands—unless the recipient can prove that the Government acted in bad faith. We all know that is not meaningful judicial review. That is just the illusion of judicial review.

Does the White House deal address this problem? It does not. In fact, it applies that same very troubling standard of review to judicial review of section 215 gag orders.

The conference report that was rejected back in December did not authorize judicial review of the gag order that comes with a section 215 order at all. That was a serious deficiency. But the White House deal does not solve it. Far from it. Under the deal, there is judicial review of section 215 gag orders, but subject to two limitations that are very problematic. First, judicial review can only take place after at least a year has passed. And second, it can only be successful if the recipient of the section 215 order proves that the Government has acted in bad faith, just as I have described with the NSL provision.

My amendment would eliminate the ''bad faith'' showing currently required for overturning both section 215 and NSL gag orders. And it would no longer require recipients of section 215 orders to wait a year before they can challenge the accompanying gag orders.

That is not everything I would want to address with regard to this issue. I am also concerned that the judicial review provisions allow the Government to present its evidence and arguments to the court in secret. But this amendment which I would like to offer is a good solid start. At a time when the Government is asserting extraordinary powers and seeking to exercise them without any oversight by the courts, judicial review of Government assertions that secrecy is necessary more essential than ever.

We cannot face the American people and claim that overreaching by the government under the PATRIOT Act cannot happen because the courts have the power to stop it—and then turn around and prevent the courts from doing their job. The illusion of judicial review is almost worse that no judicial review at all. In America, we cannot sanction kangaroo courts where the deck is stacked against one party before the case is even filed. Obviously, I hope that my colleagues will support this very reasonable amendment, if we are given a chance to vote on it. I think many would find it quite pervasive and particularly some of the people who were part of the White House negotiations.

AMENDMENT TO ADD NSL SUNSET

The third amendment I would like to offer, No. 2891, would add to the conference report one additional 4-year sunset provision. It would sunset the national security letter authorities that were expanded by the PATRIOT Act. It would be simply add that sunset to the already existing 4-year sunsets that are in the conference report with respect to section 206, section 215, and the lone wolf provision.

National Security Letters, or NSLs, are finally starting to get the attention they deserve. This authority was expanded by sections 358 and 505 of the PATRIOT Act. The issue of NSLs has flown under the radar for years, even though many of us have been trying to bring more public attention to it. I am gratified that we are finally talking about NSLs, in large part due to a lengthy Washington Post story published last year about these authorities.

What are NSLs, and why are they such a concern? Let me spend a little time on this because it really is important.

National security letters are issued by the FBI to businesses to obtain certain types of records. So they are similar to section 215 orders, but with one very critical difference. The Government does not need to get any court approval whatsoever to issue them. It doesn't have to go to the FISA court and make even the most minimal showing. It simply issues the order signed by the special agent in charge of a field office or an FBI headquarters official.

NSLs can only be used to obtain certain categories of business records, While section 215 orders can be used to obtain ''any tangible thing.'' But even the categories reachable by an NSL are quite broad. NSLs can be used to obtain three types of business records: subscriber and transactional information related to Internet and phone usage; credit reports; and financial records, a category that has been expanded to include records from all kinds of everyday businesses like jewelers, car dealers, travel agents and even casinos.

Just as with section 215, the PATRIOT Act expanded the NSL authorities to allow the Government to use them to obtain records of people who are not suspected of being, or even of being connected to, terrorists or spies. The Government need only certify that the documents are either sought for or relevant to an authorized intelligence investigation, a far-reaching standard that could be used to obtain all kinds of records about innocent Americans. And just as with section 215, the recipient is subject to an automatic, permanent gag rule.

The conference report does nothing to fix the standard for issuing an NSL. It leaves in place the breathtakingly broad relevance standard. And the White House deal doesn't do anything about this either.

It is true that the Senate bill does not contain a sunset on the NSL provision. But the Senate bill was passed before the Post brought so much attention to this issue by reporting about the use of NSLs and the difficulties that the gag rule poses for businesses that feel they are being unfairly burdened by them. At the very least, I would think that a sunset of the NSL authorities is justified to ensure that Congress has the opportunity to take a close look at such a broad power. And let me emphasize, the sunset in this amendment would only apply to the expansions of NSL authorities contained in the PATRIOT Act, not to pre-existing authorities.

I suspect that the NSL power is something that the administration is zealously guarding because it is one area where there is almost no judicial involvement or oversight. It is the last refuge for those who want virtually unlimited Government power in intelligence investigations. And that is why the Congress should be very concerned, and very insistent on including a sunset of these expanded authorities. A sunset is a reasonable step here. It helps Congress conduct oversight of these authorities, and requires us to revisit them in 4 years. Ideally we could go ahead and actually fix the NSL statutes now, but sunsetting the expanded powers would at least be a step in the right direction.

Adding this sunset does not change the law in any way. I cannot imagine that adopting this amendment would blow up the White House deal. This is a reasonable amendment, and again I want my colleagues to have a chance to vote on it.

SNEAK AND PEEK AMENDMENT

The fourth amendment that I have, No. 2894, concerns so-called ''sneak and peek'' searches, whereby the Government can secretly search people's houses. The Senate bill included compromise language that was acceptable to me and the other proponents of the SAFE Act. The conference report departs from that compromise in one very significant respect, and the White House deal doesn't address this at all. My amendment would restore the key component of the Senate compromise by requiring that subjects of sneak and peek searches be notified of the search within 7 days, unless a judge grants an extension of that time because there is a good reason to still keep the search secret. It makes no other change to the conference report other than changing 30 days to 7 days.

Let me take a little time to put this issue in context and explain why the difference between 30 days and 7 days is necessary to protect an important constitutional right.

One of the most fundamental protections in the Bill of Rights is the fourth amendment's guarantee that all citizens have the right to ''be secure in

their persons, houses, papers, and effects'' against ''unreasonable searches and seizures.'' The idea that the Government cannot enter our homes improperly is a bedrock principle for Americans, and rightly so. The fourth amendment has a rich history and includes in its ambit some very important requirements for searches. One is the requirement that a search be conducted pursuant to a warrant. The Constitution specifically requires that a warrant for a search be issued only where there is probable cause and that the warrant specifically describe the place to be searched and the persons or things to be seized.

Why does the Constitution require that particular description? Well, for one thing, that description becomes a limit on what can be searched or seized. If the magistrate approves a warrant to search someone's home and the police show up at the person's business, that search is not valid. If the warrant authorizes a search at a particular address, and the police take it next door, they have no right to enter that house. But here is the key. There is no opportunity to point out that the warrant is inadequate unless that warrant is handed to someone at the premises. If there is no one present to receive the warrant, and the search must be carried out immediately, most warrants require that they be left behind at the premises that were searched. Notice of the search is part of the standard fourth amendment protection. It's what gives effect to the Constitution's requirement of a warrant and a particular description of the place to be searched and the persons or items to be seized.

Over the years, the courts have faced claims by the Government that the circumstances of a particular investigation require a search without notifying the target prior to carrying out the search. In some cases, giving notice would compromise the success of the search by causing the suspect to flee or destroy evidence. The two leading court decisions on so-called surreptitious entry, or what have come to be known as ''sneak and peek'' searches, came to very similar conclusions. They held that notice of criminal search warrants could be delayed, but not omitted entirely. Both the Second Circuit in U.S. v. Villegas and the Ninth Circuit in U.S. v. Freitas held that a sneak and peek warrant must provide that notice of the search will be given within 7 days, unless extended by the court. Listen to what the Freitas court said about such searches:

> We take this position because surreptitious searches and seizures of intangibles strike at the very heart of the interests protected by the Fourth Amendment. The mere thought of strangers walking through and visually examining the center of our privacy interest, our home, arouses our passion for freedom as does nothing else. That passion, the true source of the Fourth Amendment, demands that surreptitious entries be closely circumscribed.

So when defenders of the PATRIOT Act say that sneak and peek searches were commonly approved by courts prior to the PATRIOT Act, they are partially correct. Some courts permitted secret searches in very limited circumstances, but they also recognized the need for prompt notice after the search unless a reason to continue to delay notice was demonstrated. And they specifically said that notice had to occur within 7 days.

Section 213 of the PATRIOT Act didn't get this balance right. It allowed notice to be delayed for any ''reasonable'' length of time. What is ''reasonable''? Information provided by the administration about the use of this provision since 2001 indicates that delays of months at a time are now becoming commonplace. Those are hardly the kind of delays that the courts had been allowing prior to the PATRIOT Act.

I know that the conference report requirement of notice within 30 days was a compromise between the Senate and House provisions. And so, the Senator from Pennsylvania and others will strongly oppose this amendment, if I ever get to offer it. But let me point out that the House passed the Otter amendment to completely eliminate the sneak and peek provision by a wide bipartisan margin. I hardly think the House will balk at this reasonable amendment that allows these sneak and peek reviews but says that after 7 days you have to go back and get an application for more time, or you have to give notice to the persons whose house is intruded upon.

More importantly, here is the crucial question that no one has been able to answer so far. Listen carefully to the arguments made by the opponents of the amendment and see if they answer it this time, if we ever get a chance to debate it. What possible rationale is there for not requiring the Government to go back to a court within 7 days after a sneak and peek search and demonstrate a need for continued secrecy? What is the problem here? Why insist that the Government get 30 days of secrecy, instead of 7 days, without getting an extension from the court? Could it be that they think that the courts usually won't agree that continued secrecy is needed after the search is conducted, so they won't get the 90-day extension? If they have to go back to a court at some point, why not go back after 7 days rather than 30? From the point of view of the Government, I don't see the big deal.

It amazes me to hear Senators on the floor saying 7 days, 30 days. What is the difference? This is about big government coming into your home without your knowledge and saying it doesn't matter that you are not given notice in 7 days as opposed to 30 days. I tell you that it matters to people in my State, and it would matter to me. Government shouldn't be in your house without notice except for very narrowly identified circumstances that are consistent with the court decisions that allowed the sneak-and-peek provisions in the first place. There is a big difference between 1 week and 1 month when it comes to something like the Government secretly coming into your home.

Suppose, for example, that the Government actually searched the wrong house. As I mentioned, that is one of the reasons that notice is a fourth amendment requirement. The innocent owner of the place that had been searched might suspect that someone had broken in his house, and he might be living in fear that someone has a key or some other way to enter his house. The owner might wonder: When is the intruder going to return? Do the locks have to be changed?

I implore my colleagues to look at this issue from the point of view of an innocent person in their own home somewhere in their own home State. Why would we make that person wait a month to get an explanation rather than a week? Presumably, if the search revealed nothing, and especially if the Government realized the mistake and does not intend to apply for an extension, it will be no hardship other than a little embarrassment for notice to be given within 7 days.

If, on the other hand, the search was successful and revealed illegal activity and notifying the subject would compromise an ongoing investigation, the Government should have no trouble at all getting a 90-day extension of the search warrant. All they have to do is walk into the court and tell the judge: Judge, we found something, and we are now keeping the place under surveillance because there is ongoing criminal activity taking place there, so give us more time before we serve the search warrant.

That is all you have to say. What is so hard about that? We all know the judges will give them that. It is perfectly reasonable.

The Senate bill is already a compromise on this very controversial provision. There is no good reason not to adopt the Senate's position. I have pointed this out repeatedly and no one has ever come to the Senate and come up with any explanation of why the Government cannot come back to the court within 7 days of executing the search. The Senate provision was what the courts required prior to the PATRIOT Act. It worked fine then. It can work now.

Let me make one final point about sneak-and-peek warrants. Do not be fooled for a minute that this power has anything to do with just investigating terrorism or espionage. It does not. Section 213 is a criminal provision that applies in any kind of criminal investigation. In fact, most sneak-and-peek warrants are issued for drug investigations. So why do I say they are not needed in terrorism investigations? Because FISA, the Foreign Intelligence Surveillance Act, can also apply to these investigations. FISA search warrants are always executed in secret and never require notice—not in 7 days, not in 30 days, not in 180 days, not ever. So

if you do not want to give notice of a search in a terrorism investigation, you can get a FISA warrant. So any argument that adopting this amendment will interfere with sensitive terrorism investigations is false. It is false, plain and simple.

I look forward to hearing the response of the opponents on this issue. I am beginning to lose faith I will ever hear from them. But I also urge my colleagues to listen carefully: Will anyone come forward and argue convincingly that 7 days, which the entire Senate approved in July, is too short of a period of time? If not, we should adopt this amendment.

I have had the opportunity the last few minutes to describe the four remaining amendments I have filed. I have tried to explain them clearly. These are provisions that are either consistent with or the same as provisions that we approved in the Senate last year by unanimous vote in the Judiciary Committee and in a unanimous consent agreement in the Senate, which not one single Senator, including the majority leader, objected to. Or they were central to the concerns raised by so many Senators late last year. So these are obviously not extreme ideas. They are very reasonable ideas.

The idea that right after the motion to proceed was approved the majority leader would come and ''fill up the tree,'' which means preventing me from offering these amendments on the Senate floor, is a disservice to the Senate and it is a disservice to the American people. The American people are concerned about this legislation. Whether Members of this Senate want to admit it, there is a lot of concern about this legislation. The goal should be to make sure that the law enforcement in our country has the tools it needs to fight those who are involved in terrorism or spying. But the goal should also be to reassure the American people that we are not somehow trying to take away the rights and freedoms and privacy of perfectly innocent Americans. I would think all of us would want that to be the way this legislation is perceived.

The act of preventing reasonable amendments, under a limited timeframe, on provisions that have already been approved by the Senate or that so many Senators have raised concerns about, is a guarantee of causing anxiety and concern on the part of the American people that something is wrong, that somehow the power grab by this administration is out of control.

I implore my colleagues to join me in imploring the majority leader to allow us to offer these reasonable amendments. That is not only the right thing to do, it is our responsibility, as Members of this Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALENT. Mr. President, I have come to the Senate floor this afternoon to speak for a few minutes about a specific provision, a significant provision in the PATRIOT Act, the Combat Meth Act. This is the most comprehensive antimethamphetamine legislation ever to be introduced, much less passed, in the Senate. I am hopeful that it will be passed in the Senate, of course, in this legislation and be sent to the President's desk for his signature and then for implementation.

Methamphetamine is the worst drug threat that I have confronted in my 20 years in public life. When I say that, I hope it has some impression on people. But when career law enforcement officers stand up in various forums and say that, I hope people are afraid because this drug should make us afraid. It is almost the ''perfect storm'' of drugs. It is almost immediately addictive.

Most people who try methamphetamine get addicted the first time they try it. There is no such thing as casual or recreational use of this drug. It is very damaging to the person who uses it. It changes the structure of the brain. It turns people who use it into more aggressive-type individuals. Other drugs, as bad as they are, tend to make people more passive. Methamphetamine makes them paranoid. I was speaking with another Senator about this bill a few minutes ago over the telephone, and he mentioned to me that in his State one woman who had been a meth user told him that when she was high on meth, she thought her 3-year-old was trying to kill her. This is not uncommon. There is almost no known medical cure for it.

Our substance abuse counselors do a heroic job and people have gotten off of methamphetamine, but I do want to state that we don't have a methadone for methamphetamine. On top of all of these things, as bad as they are by themselves, this is a drug which, to this point, has not only been consumed and sold in our neighborhoods, as other drugs are, it has been primarily, in many States, made in our own neighborhoods in local labs.

The process for making methamphetamine is highly dangerous and toxic. So in addition to all of the problems that go with addiction to deadly drugs, we have, on top of that, a whole set of other problems that you don't have with other drugs that are caused by the fact that methamphetamine is actually made in our neighborhoods. Since the process for making it is toxic, homes in which methamphetamine is made, or in cars—because sometimes they make it in vans—they become toxic waste dumps, huge environmental waste problems for local officials to clean up. The fact that the drug is made in home labs creates a whole new set of problems for kids. It is bad enough for a kid if they are growing up in a home where drugs are being used, but if methamphetamine is being cooked, the children become contaminated with toxins.

When they pull kids out of those environments, they have to decontaminate them. It can cause permanent health problems. I had a St. Louis County firefighting officer tell me that half of the vehicle fires they were fighting were methamphetamine related. Those are chemical fires. It has strained local budgets to the breaking point because our counties, in addition to all of the other law enforcement activity, have had to try to knock down, in some cases, hundreds of labs in rural counties. In many cases, there are more rural counties where they have 5, 6, 8, 10 or 12 deputies trying to patrol the whole county. It is the ''perfect storm'' of drugs.

The only silver lining in the cloud is the fact that in order to make methamphetamine, you must have pseudoephedrine. There are lots of ways to make it, but you need pseudoephedrine for making it. For local cooks, the only way to get pseudoephedrine is through cold medicines, antihistamines. This opened up the possibility for stopping the local labs that take advantage of this.

Before going any further—I only have a few minutes—I have to stop and congratulate and pay tribute to Senator FEINSTEIN. This bill that we are going to pass—I hope and believe—within the next week or 2, stands on the shoulders of the work that she has put in since the mid-1990s, when she recognized the danger of pseudoephedrine. She and I are the chief cosponsors of the measure in the Senate. She has been a pleasure to work with, and her knowledge and expertise were important in getting the bill this far. I think she can accurately regard this bill as a personal triumph.

What does the legislation do? It is a comprehensive approach. There are a number of things in it. It will put pseudoephedrine behind the counters in pharmacies and stores. Legitimate consumers will still be able to get it, but if you are buying medicines containing pseudoephedrine without a prescription, you are going to have to show an ID and sign a log book, and you won't be able to buy more than 3.6 grams of cold medicine at a time, and 9 grams in one month, which is far more than the average use of any adult for cold medicine anyway. The States that have experimented and have had measures such as this—and Oklahoma is a leader, and Iowa has been a leader, and they deserve credit. My home State of Missouri also has a law. The States that have passed laws such as this have experienced anywhere from a 70- to an 80-percent reduction in local labs.

Senator FEINSTEIN and I and all the cosponsors of the bill are hopeful that we will get the same results nationally, and we will protect our people, moreover, from people crossing State lines

to buy the pseudoephedrine in jurisdictions that don't have this legislation. We had a case in Missouri recently when a couple of meth cooks left Franklin County, MO, in eastern Missouri, drove across Illinois into Indiana and bought over 100 packages of cold medicine in Indiana, which is about 140 to 150 grams of pseudoephedrine; they were in the process of driving it back to Franklin County to support the local lab structure there, when they were caught by the Indiana troopers. We are grateful for those troopers.

That is what is going to go on until we have a national standard. This bill provides a national standard that will be effective 30 days after Presidential signature, and we can expect a 70- to 80-percent reduction in local labs around the country as a result of this.

There are a number of other provisions in the Combat Meth Act that are important, which will provide critical resources to local law enforcement to do the cleanup. When you cook meth in a home, it becomes a toxic waste dump, costing thousands of dollars to clean up. Thousands of our deputies and sheriffs and police officers have had to become trained in environmental cleanup because of this drug. We are going to provide additional resources to help them. It will enhance enforcement of meth trafficking by requiring additional reporting and certification from countries that export large amounts of pseudoephedrine. It is going to help local social services help the kids who are tragically trapped in this environment. There is money for drug-endangered children rapid response teams. We can help localities with that. We provide extra tools to prosecute meth cooks and traffickers.

It is a comprehensive measure, but it is by no means all that we need to do. This is a significant first step, and Senator FEINSTEIN and I believe it will at least substantially eliminate these labs, which then will eliminate a whole set of enormous problems above and beyond the problems caused by addiction to methamphetamine.

We are continuing to work with the State Department, the DEA, and other agencies to try to interdict shipments of methamphetamine or pseudoephedrine from abroad. We need to work with relevant committees to come up with a new kind of methamphetamine technical assistance center in Washington, which can help develop better protocols and assistance to help those people who are on meth and want to get off of it. I think it is an important part of the drug war to say to people: Look, if you are addicted to a drug and you want help, we want to help you. If what you want to do is cook this drug or make it and sell it to our kids, we are going to stop you.

That is a piece that we need to work on, and I think we will work on it. We have had assurances from the relevant Committee chairs and ranking members that we can do that. We need to pass this bill now. I am grateful—and I know Senator FEINSTEIN is as well—to the leaders in both parties for their bipartisan leadership and to the Judiciary Committee, Senator SPECTER and Senator LEAHY, for allowing us to put this bill on the PATRIOT Act. We are grateful, also, to the Senate for its unanimous support of this bill over the last few months.

Mr. President, we can do important things. We can do good things for people, and we can do them the right way. That is how I look at the Combat Meth Act. It is going to make a difference immediately in neighborhoods and communities around the country, and it has been done on a thoroughly bipartisan basis from the beginning, when Senator FEINSTEIN and I cosponsored it.

So I am pleased to be here to speak on behalf of the bill as a whole and also on behalf of this specific provision. I hope we can move expeditiously to final passage so that this important legislation can be signed by the President and can become law.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I rise to speak about S. 2271, Senator SUNUNU's bill to amend the PATRIOT Act. I commend Senator JOHN SUNUNU of New Hampshire for his extraordinary efforts on this bill.

For over 2 years he has been part of a bipartisan coalition, which I have been happy to join him in, working to reform the PATRIOT Act. We support the PATRIOT Act. We want it to include checks and balances to protect the constitutional rights of Americans. In other words, we want to improve the PATRIOT Act, not abandon it.

We came together across party lines for this effort because our national security and constitutional rights are important to every American. The PATRIOT Act should not be a political football.

When we launched this effort 2 years ago, the administration said changing even one word in the PATRIOT Act was unacceptable. I have said that when it comes to writing laws, with the exception of the Ten Commandments which were handed down on stone tablets, there are no perfect laws; we should always try to improve them.

Now, with Senator SUNUNU's bill and the PATRIOT Act conference report, we will reauthorize the PATRIOT Act with significant reforms, reforms we proposed as long as 2 years ago.

Let me say up front this outcome is far from perfect. There is still a lot of work to be done.

But the administration was willing to let the PATRIOT Act expire rather than accept some of the reforms we proposed. We will not let that happen. The PATRIOT Act will not expire on our watch.

We are going to reauthorize the PATRIOT Act with new checks and balances that will help protect innocent Americans, but we will not stop our fight for additional necessary reforms.

Let me take a few minutes to review the history of the PATRIOT Act. During a time of national crisis, shortly after September 11, the President came to us, asking Congress for new tools and new authority to fight terrorism. While the ruins of the World Trade Center were still smoldering, Congress responded on a bipartisan basis, with dispatch, to give this administration what they wanted to be able to fight terrorism. We passed the PATRIOT Act with overwhelming bipartisan support.

We understood it was a unique moment in history. We had to act quickly. Even then we were concerned that perhaps the PATRIOT Act went too far. So we included sunsets so we could review this law after four years and reflect on whether we had made the right decision.

There is now a widespread, bipartisan consensus that the PATRIOT Act went too far in several specific areas. The vast majority of the provisions of the PATRIOT Act are not controversial. But in a few specific areas, there is broad agreement that the PATRIOT Act does not include adequate checks and balances to protect the civil liberties of innocent Americans.

As a result, Senator LARRY CRAIG and I introduced the Security and Freedom Enhancement Act, also known as the SAFE Act, to address these specific areas of concern. We were joined by our colleagues Senators SUNUNU, FEINGOLD, MURKOWSKI, and SALAZAR.

We crossed a broad and wide political divide to come together. This is really the gathering of political odd fellows, but we all shared the same goal: protecting constitutional freedoms while still protecting the security of America.

The administration threatened to veto the SAFE Act if it ever came before them. They claimed that it would ''eliminate'' some PATRIOT Act powers. In fact, the SAFE Act would not repeal a single provision of the PATRIOT Act. It would retain the expanded powers created by the PATRIOT Act but place important limits on these powers.

The bill attracted an enormous amount of support from across the political spectrum, from the most conservative to the most liberal groups in Washington. I have never seen another bill like our SAFE Act that attracted that kind of support.

It also was supported by the American Library Association because it would prevent the Government from snooping through the library records of innocent Americans.

I thank America's librarians for their efforts and tell them that it paid off.

They were not taking a hysterical position, as some in the administration branded it. They were taking the right position—standing up for the freedoms we hold dear in this country.

The conference report, as amended by the Sununu bill, includes a number of checks and balances that are based on provisions of the SAFE Act.

Under the PATRIOT Act, the FBI is now permitted to obtain a John Doe roving wiretap, a sweeping authority never before authorized by Congress. A John Doe roving wiretap does not specify the person or phone to be wiretapped. In other words, the FBI can obtain a wiretap without telling a court whom they want to wiretap or where they want to wiretap.

Like the SAFE Act, the PATRIOT Act conference report would continue to allow roving wiretaps, but it places a reasonable limit on these so-called John Doe roving wiretaps. In order to obtain a John Doe roving wiretap, the Government would now be required to describe the specific target of the wiretap to the judge who issues the wiretap order. This will help protect innocent Americans.

Under the PATRIOT Act, the FBI can search your home without telling you until some later date. These sneak-and-peek searches are not limited to terrorism cases.

Like the SAFE Act, the conference report would require the Government to notify a person who is subjected to a sneak-and-peek search within a specific period of time, 30 days, rather than the undefined delay currently permitted by the PATRIOT Act. The court could allow additional delays of notice under compelling circumstances.

Section 215 of the PATRIOT Act is often called the library records provision. This section has been the focus of much of our efforts.

Under section 215, the FBI can obtain your library, medical, financial, or gun records simply by claiming they are seeking the records for a terrorism investigation. If the FBI makes this claim, the court must issue an order. It has no ability to even question the FBI about why they want to look into your sensitive personal information. This type of court approval is nothing more than a rubberstamp.

Defenders of this section often compare to it a subpoena by a grand jury in a criminal case, but it couldn't be more different. A person who receives a grand jury subpoena can challenge it in court. A person who receives a section 215 order cannot go to a judge to challenge the order, even if he believes his rights have been violated.

Courts have held that it is unconstitutional to deny someone the right to go to court to challenge an order like this.

Also, unlike a person who receives a grand jury subpoena, the recipient of a section 215 gag order is subject to an automatic permanent gag order.

And a person who receives a Section 215 order has no right to go to a judge to challenge the gag order. Courts have held that gag orders that cannot be challenged in court violate the first amendment.

Like the SAFE Act, the PATRIOT Act conference report, as amended by Senator SUNUNU's bill, will place some reasonable checks on section 215.

In order to obtain a section 215 order, the Government will now have to convince a judge that they have reasonable grounds to believe the information they seek is relevant to a terrorism investigation. The court will have the ability to question the FBI before issuing a section 215 order.

This is an improvement, but I'm still concerned that the Government is not required to show a connection to a suspected terrorist in order to obtain section 215 order. I will speak more about this later.

The FBI will also be required to follow so-called minimization procedures. These procedures should help to protect innocent Americans by limiting the retention and dissemination of information obtained with section 215 orders.

The recipient of section 215 order will now have the ability to consult with an attorney.

Judicial oversight will also be enhanced. The recipient of a section 215 order will now have the right to challenge the order in court on the same grounds as he could challenge a grand jury subpoena.

And, if Senator SUNUNU's bill passes, the recipient of a section 215 order will also have the right to challenge the gag order in court.

The PATRIOT Act expanded the Government's authority to use national security letters which are also known as NSLs.

An NSL is a type of administrative subpoena. It is a document signed by an FBI agent that requires businesses to disclose the sensitive personal records of their customers.

An NSL does not require the approval of a judge or a grand jury. A business that receives an NSL is subject to an automatic, permanent gag order.

As with section 215 orders, a person cannot go to a judge to challenge an NSL or the NSL's gag order, and he can't consult with an attorney.

Like the SAFE Act, the PATRIOT Act conference report, as amended by Senator SUNUNU's bill, will place some reasonable checks on NSLs.

Most important, the Sununu bill clarifies that the government cannot issue a national security letter to a library that is functioning in its traditional role, which includes providing computer terminals with basic Internet access.

As with section 215 orders, the recipient of an NSL will now have the right to consult with an attorney, and the right to challenge the NSL or the NSL's gag order in court.

Like the SAFE Act, the conference report will also require public reporting on the use of PATRIOT Act authorities, including the number section 215 orders and NSLs issued by the Government.

Finally, the conference report includes a sunset on three provisions of the law, including section 215, so Congress will again have an opportunity to review the PATRIOT Act at the end of 2009.

As I said earlier, the conference report is not perfect. That's the nature of a compromise.

I am especially concerned about the need for additional checks on section 215 and national security letters.

The conference report would allow the Government to use section 215 orders or NSLs to obtain sensitive personal information without showing some connection to a suspected terrorist. I fear that this could lead to Government fishing expeditions that target innocent Americans.

In this country, you have the right to be left alone by the Government unless you have done something to warrant scrutiny.

When the FBI is conducting a terrorism investigation they shouldn't be able to snoop through your library, medical, or gun records unless you have some connection to a suspected terrorist.

I am also very concerned about unnecessary limits on judicial review of section 215 national security letter gag orders. The conference report requires the court to accept the Government's claim that a gag order should not be lifted, unless the court determines the Government is acting in bad faith. This will make it difficult to get meaningful judicial review of a gag order.

As I said earlier, our bipartisan coalition is going to keep working for additional reforms to the PATRIOT Act.

In fact, Senator CRAIG, Senator SUNUNU and I plan to introduce an updated version of the SAFE Act to address the problems that still exist with the PATRIOT Act.

Our great country was founded by people who fled a government that repressed their freedom in the name of security. The Founders wanted to ensure that the United States Government would respect its citizens' liberties, even during times of war. That's why there is no wartime exception in the Constitution.

The 9/11 Commission said it best: The choice between security and liberty is a false one. Our bipartisan coalition believes the PATRIOT Act can be revised to better protect civil liberties. We believe it is possible for Republicans and Democrats to come together to protect our fundamental constitutional rights and give the Government the powers it needs to fight terrorism. We believe we can be safe and free.

That's why we're going to reauthorize the PATRIOT Act with new checks and balances. And that's why we'll keep fighting for additional reforms to the PATRIOT Act.

Senators CRAIG, SUNUNU, and others have joined me in improving the PATRIOT Act as originally written. There

are still serious problems with the PATRIOT Act, but I think this conference report, as amended by Senator SUNUNU's bill, is a positive step forward. That is why I am supporting it.

I promise, as they say, eternal vigilance, watching this administration and every administration to make certain they don't go too far. If they overstep, if they step into areas of privacy and constitutional rights, I will speak out and do my best to change the PATRIOT Act and make it a better law.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Iowa.

REPORT ON FDA APPROVAL PROCESS FOR VNS

Mr. GRASSLEY. Mr. President, I want to address my fellow Senators, in cooperation with my friend, Senator BAUCUS from Montana, on an issue that our respective staffs have been working on together for a long time. As chairman of the Finance Committee and as ranking member, we are releasing today a report. We come to the floor with our duties in mind to our constituents, to Medicaid and Medicare beneficiaries, and to all Americans, to speak of urgent matters that should concern all of us.

For more than 2 years, I have followed, with increasing concern, the performance of the Food and Drug Administration. It seems as though every week, if not every day, some new danger or risk is brought to light about an FDA-approved drug or device. As chairman and ranking member of the committee, Senator BAUCUS and I have a responsibility to American taxpayers to ensure that Medicare and Medicaid programs pay for medical products that have been appropriately approved in accordance with all laws and regulations. Whether a product is safe, whether a product is effective is not only a major public safety concern; it also has important financial concerns.

We understand there is a human element to the Food and Drug Administration's approval process. As a society, we recognize the anguish of families who must rely on the development of innovative, experimental, new medical products and treatments that may or may not save the life of a loved one. Our Nation is lucky to have a private marketplace that is incredibly resourceful and prolific in the field of medicine. An integral role of the Food and Drug Administration is to get these potentially lifesaving products to the market without undue delay. We also have a Government-regulated system where patients have the option to receive potentially lifesaving but unproven products by participating voluntarily in clinical trials. In the end, however, our Nation's well-founded medical system, despite its weaknesses, must always rest on sound science.

The report we are releasing today focuses on the FDA's approval process for medical devices. It is indisputable that all medical devices carry risks, but Food and Drug Administration approval is still considered the gold standard for safety and effectiveness. However, our committee staff report raises legitimate questions about the FDA's decision to approve a specific medical device. Last February, a number of concerns were raised to our committee about an implantable device called the vegus nerve stimulator or VNS, as I will refer to it. This product, VNS, is manufactured by a company called Cyberonics. Senator BAUCUS and I asked our committee staff to review the concerns that were given to us and report their findings. This report has three major findings which I will summarize briefly.

First, the Food and Drug Administration approved VNS for treatment-resistant depression, a new indication for this surgically implanted device. That was based upon a senior manager overruling more than 20 Food and Drug Administration scientists, medical, and safety officers, as well as managers, who reviewed the data on VNS. The high-level official approved the device despite a resolute conclusion by many at the FDA that the device did not demonstrate a reasonable assurance of safety and effectiveness.

Second, the Food and Drug Administration has not made public the level of internal dissent involved in this device approval, despite the fact that the FDA has publicized differences of scientific opinion within the agency when it has announced other controversial regulatory decisions.

Third, the Food and Drug Administration has not ensured that the public has all the accurate, science-based information on the safety and effectiveness of the VNS for treatment-resistant depression. So health care providers, relying on the FDA's information about this device, may not be able to convey complete risk information to each patient.

In the end, this senior Food and Drug Administration official not only overruled more than 20 Food and Drug Administration employees, but he stated to our committee staff that the public would not be made aware of the scientific dissent over whether the device is reasonably safe and effective. Until today, this official's detailed conclusions remain confidential and unavailable to the public. We are releasing these confidential conclusions in the appendix to the report. Some of his own conclusions raise serious questions in our minds. For example, I quote from his override memorandum:

> I think it needs to be stated clearly and unambiguously that [certain VNS data] failed to reach, or even come close to reaching, statistical significance with respect to its primary endpoint. I think that one has to conclude that, based on [that] data, either the device has no effect, or, if it does have an effect, that in order to measure that effect a longer period of follow-up is required.

The events and circumstances surrounding the Food and Drug Administration's review and approval of VNS for treatment-resistant depression, which you will find detailed in this report we are releasing, raises critical questions about the Food and Drug Administration's so-called ''authoritative'' approval process. I am greatly concerned that the Food and Drug Administration standard for approval may not have been met here. If that is the case, it raises further difficult questions, including whether Medicare and Medicaid dollars should be used to pay for this device now.

Accordingly, we are forwarding the report to Secretary Leavitt, Administrator McClellan, and Acting Commissioner von Eschenbach for their consideration and comment. These are difficult matters that deserve their full attention.

Before I close, I commend the commitment and dedication of the more than 20 FDA scientists who tried to do the right thing in this case, as they probably do in every case, and not stray from evidence-based science. I applaud their effort on behalf of the American people.

I ask unanimous consent that the executive summary of the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I. EXECUTIVE SUMMARY

The United States Senate Committee on Finance (Committee) has exclusive jurisdiction over the Medicare and Medicaid programs. Accordingly, the Committee has a responsibility to the more than 80 million Americans who receive health care coverage under Medicare and Medicaid to oversee the proper administration of these programs, including the payment for medical devices regulated by the Food and Drug Administration (FDA). Given the rising health care costs in this country, and more importantly, in the interest of public health and safety, Medicare and Medicaid dollars should be spent on drugs and devices that have been appropriately deemed safe and effective for use by the FDA, in accordance with all laws and regulations.

In February 2005, Senator Charles Grassley (R–IA) and Senator Max Baucus (D–MT), Chairman and Ranking Member of the Committee, initiated an inquiry into the FDA's handling of Cyberonics, Inc.'s (Cyberonics) pre-market approval application to add a new indication—treatment-resistant depression (TRD)-to Cyberonics's Vagus Nerve Stimulation (VNS) Therapy System, an implanted pulse generator. The Chairman and Ranking Member initiated the inquiry in response to concerns that were raised regarding Cyberonics's VNS Therapy System for TRD. On July 15, 2005, the FDA approved the device for TRD.

The investigative staff of the Committee reviewed documents and information obtained and received from the FDA and Cyberonics and found the following:

As the federal agency charged by Congress with ensuring that devices are safe and effective, the FDA approved the VNS Therapy System for TRD based upon a senior official overruling the comprehensive scientific evaluation of more than 20 FDA scientists, medical officers, and management staff who reviewed Cyberonic's application over the course of about 15 months. The official approved the device despite the conclusion of the FDA reviewers that the data provided by Cyberonics in support of its application for a

new indication did not demonstrate a reasonable assurance of safety and effectiveness sufficient for approval of the device for TRD.

The FDA's formal conclusions on safety and effectiveness do not disclose to doctors, patients or the general public the scientific dissent within the FDA regarding the effectiveness of the VNS Therapy System for TRD. The FDA has publicized differences of scientific opinion within the agency when it has announced other controversial regulatory decisions. Throughout the review of Cyberonics's application, the team of FDA scientists, medical officers, and management staff involved recommended that the device not be approved for TRD. However, at every stage of the review, the team was instructed by the FDA official, who ultimately made the decision to approve the device, to proceed with the next stage of pre-market review.

The FDA has not ensured that the public has all of the accurate, science-based information regarding the VNS Therapy System for TRD it needs. Health care providers relying on the FDA's public information on the safety and effectiveness of this device may not be able to convey complete risk information to their patients, because not all of the relevant findings and conclusions regarding the VNS Therapy System have been made available publicly.

The FDA has an important mission:

The FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation's food supply, cosmetics, and products that emit radiation. The FDA is also responsible for advancing the public health by helping to speed innovations that make medicines and foods more effective, safer, and more affordable; and helping the public get the accurate, science-based information they need to use medicines and foods to improve their health.

As part of that mission, the FDA weighs the risks and benefits of a product, in this case a medical device, to determine if the product is reasonably safe and effective for use.

The facts and circumstances surrounding the FDA's approval process for the VNS Therapy System for TRD raise legitimate questions about the FDA's decision to approve that device for the treatment of TRD. While all implantable medical devices carry risks, it is questionable whether or not the VNS Therapy System for TRD met the agency's standard for safety and effectiveness. The FDA's approval process requires a comprehensive scientific evaluation of the product's benefits and risks, including scientifically sound data supporting an application for approval. Otherwise health care providers and insurers as well as patients may question the integrity and reliability of the FDA's assessment of the safety and effectiveness of an approved product. In the case of VNS Therapy for TRD, the FDA reviewers concluded that the data limitations in Cyberonics's application could only be addressed by conducting a new study prior to approval. However, in the present case, instead of relying on the comprehensive scientific evaluation of its scientists and medical officers, it appears that the FDA lowered its threshold for evidence of effectiveness. Contrary to the recommendations of the FDA reviewers, the FDA approved the VNS Therapy System for TRD and allowed Cyberonics to test its device post-approval.

In addition, given the significant scientific dissent within the FDA regarding the approval of the VNS Therapy System for TRD, the FDA's lack of transparency with respect to its review of the device is particularly troubling. The FDA has limited the kind and quality of information publicly available to patients and their doctors and deprived them of information that may be relevant to their own risk-benefit analysis. Patients and their doctors should have access to all relevant findings and conclusions from the comprehensive scientific evaluation of the safety and effectiveness of the VNS Therapy System for TRD to enable them to make fully informed health care decisions.

Mr. GRASSLEY. I yield the floor for my colleague.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I join the chairman of the Finance Committee, Senator GRASSLEY, in commending our Finance Committee staff on the report that we release today. This report deals with an important public safety matter. The Food and Drug Administration approval process has long been considered the gold standard in this country. We rely on the FDA to review drugs and to review medical devices. We rely on the FDA to tell us, by providing a seal of approval, that drugs and devices are safe and that they are effective.

While all drugs and devices carry some risk, some are more risky than others. But if the FDA determines a drug or device is safe to bring to the market, Americans generally feel we can use the treatment without undue concern. We Americans rely on the FDA to ensure that manufacturers provide sufficient warnings of their products' risks so that health care providers and patients can make informed health care decisions.

The FDA has a complex approval process. A review team, including scientists, doctors, and specialists, surveys all the data and makes a recommendation regarding whether to approve a drug or device. The review team then forwards its recommendation to management for review. This process can be lengthy and intense.

Last year, concerns were brought to the Finance Committee regarding how the review process had unfolded in the case of a device known as the VNS Therapy system. Cyberonics makes the VNS system and was seeking approval of the device for use in patients with treatment-resistant depression. Chairman GRASSLEY and I asked our committee staffs to look into what had gone on.

The Finance Committee has the responsibility for the Medicare and Medicaid Programs and the millions of Americans who receive health care, including the use of safe and proper medical devices. Medicare and Medicaid only pay for drugs and devices which FDA has approved. So approval affects patients' budgets and the Federal budget, as well.

In the case of the VNS Therapy system, the FDA review team was comprised of more than a dozen FDA staff, including doctors, scientists, safety officers, and statisticians. This review team unanimously recommended against FDA approval. The team argued that the data were insufficient to justify approval and that additional premarket testing was in order. Three levels of management concurred with the team's recommendation. The uppermost manager—the Director of the Center for Devices—disagreed. With the stroke of a pen, he overruled the analysis and conclusions of his staff, and he approved the device. Now the FDA seal of approval has been attached to that VNS Therapy system by one person, over the objections of several technical experts who studied the device.

Without this report from the Finance Committee, the public would not know that the team of scientists and doctors who reviewed this device did not believe it should be approved. Without this report, there would be no way for providers and patients to make fully informed health care decisions because they would not be aware of all of the risks.

In short, we present this report out of a concern for public safety. We believe that doctors and patients considering this device should know that it was approved over the objection of a team of seasoned scientists. It is important for the public to know what the FDA scientists and doctors thought about the risk to which patients would be exposed. The FDA has not made public any information regarding the level of scientific dissent. So I am glad we have this report.

I am greatly concerned about this unusual turn of events at the FDA. I hope this is not a sign of things to come. I hope that FDA approval can remain the gold standard, and I hope Medicare and Medicaid can continue to pay for FDA-approved products knowing they are safe.

I thank Chairman GRASSLEY for his work. He has worked diligently, as he always does, particularly when wrongs should be exposed. I appreciate it when we can work together to improve the efficacy and safety of American health care.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

(The remarks of Mr. BAUCUS and Mr. DURBIN pertaining to the introduction of S. 2303 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, at this moment, I wish to address the bill pending before the Senate, and that is S. 2271.

I commend Senator JOHN SUNUNU of New Hampshire, who is here in the Chamber. Were it not for his hard work, we would not be here today. For weeks, while many of us were doing other things back home, Senator SUNUNU was working assiduously with the White House to find a way to address some very vexing and challenging issues when it came to modifying the PATRIOT Act. He has done an excellent job. I commend him and tell him that I have enjoyed working with him

over the last 2 years, where we have crossed party lines and tried to find ways to keep the PATRIOT Act as a tool to make America safe but also at the same time to protect our basic liberties.

Every step of the way, as we considered changes to the PATRIOT Act, we have been supported by our Nation's librarians. These are wonderful men and women—professionals—who are dedicated to the libraries across America, which are such rich resources. I thank the librarians of America, especially for their heroic efforts to amend the PATRIOT Act in a responsible way and, equally as important, to defend our Constitution.

I understand that section 5 of Senator SUNUNU's bill, S. 2271, will help protect the privacy of Americans' library records. I ask the indulgence of the Chair that I might enter into a colloquy with Senator SUNUNU relative to section 5. I would like to ask Senator SUNUNU, through the Chair, if he could explain to me what section 5 will accomplish.

Mr. SUNUNU. Mr. President, I am pleased to be on the floor today and pleased to be able to see the light at the end of the tunnel on PATRIOT reauthorization, thanks to the work of Senator DURBIN and others. We have legislation before us that will make the adjustments to the PATRIOT Act reauthorization conference report mentioned by the Senator from Illinois. He specifically mentioned section 5 of our legislation. As he began to describe, section 5 is intended to clarify current law regarding the applicability of National Security Letters to libraries.

A National Security Letter is a type of administrative subpoena, a powerful tool available to law enforcement officials, to get access to documents. It is a document signed by an FBI agent that requires a business to provide certain kinds of personal records on their customers to the Government. These subpoenas are not approved by a judge before being issued.

What we did in this legislation is add clarifying language that states that libraries operating in their traditional functions: lending books, providing access to digital books or periodicals in digital format, and providing basic access to the Internet would not be subject to a national security letter. There is no National Security Letter statute existing in current law that permits the FBI explicitly to obtain library records. But, as was indicated by the Senator from Illinois, librarians have been concerned that existing National Security Letter authority is vague enough so that it could be used to allow the Government to treat libraries as they do communication service providers such as a telephone company or a traditional Internet service provider from whom consumers would go out and get their access to the Internet and send and receive e-mail.

Section 5 clarifies, as I indicated, that a library providing basic Internet access would not be subject to a national security letter, simply by virtue of making that access available to the public.

Mr. DURBIN. I thank the Senator from New Hampshire. It is my understanding that most public libraries, as he explained, offer Internet access to the public. Because of this, they are concerned that the Government might consider them to be communications service providers similar to the traditional providers, such as AT&T, Verizon, and AOL.

So if I understand it correctly, your bill clarifies that libraries, simply because they provide basic Internet access, are not communications service providers under the law and are not subject to national security letters as a result. I ask the Senator from New Hampshire, through the Chair, is that a correct conclusion?

Mr. SUNUNU. Mr. President, I absolutely believe that the conclusion of the Senator from Illinois is correct. A library providing basic Internet access would not be subject to a National Security Letter as a result of that particular service and other services that are very much in keeping with the traditional role of libraries.

Some have noted or may note that basic Internet access gives library patrons the ability to send and receive e-mail by, for example, accessing an Internet-based e-mail service. But in that case, it is the Web site operator who is providing the communication service—the Internet communication service provider itself—and not the library, which is simply making available a computer with access to the Internet.

So I certainly share the concerns of the Senator from Illinois and others who have worked very long and hard on this and other provisions. I think it does add clarity to the law as he described, in addition to providing other improvements to the PATRIOT Act as they relate to civil liberty protections. All along, this has been about providing law enforcement with the tools that they need in their terrorism investigations while, at the same time, balancing those powers with the need to protect civil liberties. I think, in the legislation before us, we have added clarity to the law in giving access to the courts to object to section 215 gag orders and, of course, striking a very punitive provision dealing with counsel and not forcing the recipient of a National Security Letter to disclose the name of their attorney to the FBI.

All of these are improvements to the underlying legislation, and I recognize that we had a overwhelming, bipartisan vote today to move forward on this package. I anticipate that we will have similar bipartisan votes in the days ahead to conclude work on this legislation and get a much improved PATRIOT Act signed into law.

Mr. DURBIN. I thank the Senator from New Hampshire, as well, because that clarification is important. So if a library offers basic Internet access, and within that access a patron can, for example, send and receive e-mail by accessing an Internet-based e-mail service such as Hotmail, for example, that does not mean the library is a communications service provider and, therefore, it does not mean that a library could be subject to these national security letters of investigation.

By way of comparison, a gas station that has a pay phone isn't a telephone company. So a library that has Internet access, where a person can find an Internet e-mail service, is not a communications service provider; therefore, it would not fall under the purview of the NSL provision in 18 U.S.C. 2709. It is a critically important distinction. I thank the Senator from New Hampshire for making that clear and for all of his good work on this bill.

Libraries are fundamental to America. They symbolize our access to education. They are available to everyone, regardless of social or economic status.

When we first introduced the SAFE Act, I went to the Chicago Public Library to make the announcement. The library was established in 1873, and for over 130 years it has given the people of the City of Chicago the ability to read and learn and communicate. Here is what the mission statement says at that public library:

> We welcome and support all people and their enjoyment of reading and pursuit of lifelong learning. We believe in the freedom to read, to learn, and to discover.

We have to ensure, in the Senate and in Congress, in the bills that we pass, including the PATRIOT Act, that this freedom to read, learn, and discover is preserved for our children and our grandchildren.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFUNDED MANDATES

Mr. ALEXANDER. Mr. President, the National Governors Association meeting will be held in Washington during the week we return from recess. That brings back some fond memories for me because I remember the 8 years I served as Governor. Each time we came here, and the highlight of it every year, was a dinner in the White House with the Chief Executive of the United States and the chief executive of each of our States.

While the Governors are in town, or as they are coming to town, I want to take the opportunity to wave the lantern of federalism on a few issues under discussion here in the Senate that will affect strong State and local governments. I know the Presiding Officer cares deeply about the same issues because his service as mayor made him

aware of those issues, just as I was as Governor.

During the year after I came to the Senate, when we were debating the Internet tax issue, someone said in exasperation that I had appeared not to have gotten over being a Governor. I hope that can be said on the day I leave here, because most of our politics here in the Senate is about how we resolve conflicts of principles. One of the most important principles upon which our country is founded is the principle of federalism, the idea that we are a big, diverse, complex country and that we need strong States and strong cities and strong counties and strong communities to absorb all of our differences. We are not a small, homogeneous nation and our federalism is absolutely key to our success as a country.

I have not gotten over being Governor. It causes me especially to remember how the Republican majority came to power in 1994, a majority of which I am proud to be a part. There was a Contract with America. I wasn't part of the Congress at that time, but I remember it very well. I remember one of the most important aspects of the Contract With America was: no more unfunded Federal mandates. I remember also that a large number of Republicans, along with Leader Gingrich, stood on the Capitol steps and said: If we break our promise, throw us out.

Since I wish to make sure our majority doesn't get thrown out, I want to remind all of us, including many who serve in the Senate, who voted in 1995 to stop unfunded Federal mandates, this still is an important part of our responsibilities here. I have three examples of that in our discussions.

The Senate recently reaffirmed its commitment to the idea of avoiding unfunded Federal mandates. I suppose I should stop for a moment and explain what I mean by ''unfunded Federal mandate.'' That is a Washington phrase we throw around. Here is the way I understand it. Nothing used to make me madder as Governor—and I daresay it might also be true of the Presiding Officer, who was a mayor—than for some Senator or Congressman to come up with a big idea in Washington, pass it into law, hold a press conference and take credit for it, and send the bill to me to pay at the State capitol. Then the next thing you know, that same politician would be back somewhere in Tennessee making a big speech about local control. That is an unfunded Federal mandate—when the big idea is here and the law is passed here and then the bill is sent down to the county commissioner or to the mayor or to the legislature or to the Governor and it is said: It was our idea but you pay for it.

Ten years ago when Bob Dole was the majority leader, the first thing the new Republican Congress did—it was called S. 1 at that time—was to pass the Unfunded Mandates Reform Act. It created a new point of order that could be raised against legislation imposing unfunded Federal mandates on State and local governments. Everyone felt pretty good about that because they said this new law will create a so-called penalty flag that can be thrown when some Federal official came up with a good idea, passed it into law, and sent the bill back to us in the States. However, until recently that penalty flag has never been thrown, not in the first 10 years of its existence. However, last year, in our Budget Act, that point of order was given some more teeth. In the budget resolution under which we operate today, an unfunded mandate point of order raised in the Senate requires 60 votes in order to be waived instead of the simple majority required under the Unfunded Mandates Reform Act.

In October of last year, 2005, this 60-vote point of order was raised for the first time in the Senate against two amendments to an appropriations bill that would have raised the minimum wage. That would have been an unfunded Federal mandate. This new provision was put into the Budget Act by Senator GREGG, who had been the Governor of New Hampshire. It had my support as well as that of a number of other Senators. So I would like to call to the attention of my colleagues, and the Governors as they are coming to town, three issues that are currently under discussion here that raise the specter of unfunded Federal mandates.

No. 1 is the taxation of Internet access issue. State and local governments and members of the telecommunications industry, I believe, need to come up with a solution to that question before the current moratorium expires in 2007.

No. 2, the Federal Government needs to fully fund the implementation of the so-called REAL ID Act, which we passed last year and which has to do with border security.

No. 3, the Federal Communications Commission needs to exempt colleges and universities from expensive new requirements that will require colleges to modify their computer networks to facilitate surveillance, which will have the effect of adding about $450 to every tuition bill across this country.

Let's take those one by one. First is the Internet access tax moratorium. My colleagues will remember that after we had a spirited debate that went on for about a year and a half, President Bush signed into law the Internet Tax Nondiscrimination Act. There was a lot of discussion, a lot of compromise, a lot of negotiation. What we were arguing about was, on one hand we wanted to increase the availability of high-speed Internet access to all Americans—that is a national goal—but at the same time we didn't want to do harm to State and local governments by taking away from them, as a part of our act, billions of dollars upon which they relied for paying for schools, paying for colleges, paying for other local services.

The bill we came out with at the end of 2004 was a good compromise for several reasons. First, it was temporary, not permanent. It called for a 4-year extension of the Internet access tax moratorium that was already in place, so this one will expire in a year and a half.

Second, our agreement allowed States already collecting taxes on Internet access to continue to do so. That was a part of the ''do no harm'' theory that many of us championed.

Finally, it made clear that State and local governments could continue to collect taxes on telephone services even if telephone calls are made over the Internet, which they increasingly are.

In January of this year, the General Accounting Office released a report interpreting the Internet Tax Nondiscrimination Act. The GAO interpreted the moratorium in a more limited way than what I, and I am sure many of the other Senators, intended when we were drafting the bill.

While the interpretation may suit me fine because it goes in the direction I was arguing, the GAO interpretation may demonstrate very clearly how important it is to deal with this complex issue in some other way. That is why it needs to be resolved by representatives of industry and by mayors and Governors working together to suggest to us a path for the future. I understand the National Governors Association has convened meetings with representatives of the telecommunications industry and State and local governments. I hope all the parties will take those negotiations seriously, reinvigorate those efforts, and present us with a workable compromise we can then consider and enact.

Let me suggest again the principles that I believe should guide this discussion. No. 1, separate the issue of taxation and legislation. Both are very complex issues that can have serious implications for industry and State and local governments and consumers, but they are not the same effects. The goal should be simplicity. Regulations surely ought to be streamlined to allow new technology to flourish. Voice over Internet protocol or, in plain English, making telephone calls over the Internet, is very different than plain old telephone service, and our regulatory structure needs to recognize that and be welcoming to this change. The goal in taxing the industry should also be simplicity and certainty. For example, a company that operates in almost 11,000 State and local jurisdictions, all of whom might tax telecommunications, might have to file more than 55,000 tax returns a year. No one wants to see that happen and that is far too big a burden for a large company, much less a small startup company. But in searching for a solution, we do not want to do harm to State and local governments.

The Senator from California, the Senator from Delaware, the Senator

from Ohio—many Senators pointed out that State and local governments rely heavily today on telecommunications taxes as a part of their tax base.

In our State of Tennessee, our Governor said it is a matter of $300 million or $400 million in State revenues. That would be as much money as we would raise from instituting an income tax. It is a lot of money. So we should not take an action in Washington, even for a good purpose, that has the effect of undercutting State and local decisionmaking. My point very simply is, deregulate voice over Internet protocol? Yes. We absolutely should do it. But we must find a way to do it that doesn't force States and local governments to provide subsidies to the telephone companies. If the Federal Government wants to provide a subsidy to the telephone companies, the Federal Government ought to pay for it and not create an unfunded Federal mandate.

The second example of the possibility of an unfunded Federal mandate came with the passage of the REAL ID legislation. We are about to enter into a debate about immigration. We hear about it all the time. It is a serious problem. We have 10 million to 15 million people living in our country who are illegally here. That is not right for a country that honors the rule of law, and we have to fix it. One way some have suggested to fix it was the so-called REAL ID law. But the effect of that was basically to turn driver's license examiners in Tennessee and every other State into CIA agents by making State driver's licenses national ID cards, and then forcing the States to pay for it.

I don't want to talk today about whether it is a good idea or a bad idea to turn State driver's license employees into CIA agents, or whether we should have a national ID card. The fact is the law says that is what they are going to do and that is what we are going to have. What I want to talk about today is how do we pay for that.

REAL ID, according to the National Conference of State Legislators, will cost States $500 million over 5 years to implement. That is $100 million a year. This is not technically an unfunded mandate because the law actually gives States a choice, but here is the choice: In Minnesota or Tennessee or any other State, either upgrade your driver's licenses according to the Federal rules, or your residents will not have the ability to collect their Social Security check or board an airplane. So that is not much of a choice.

All across the country, because of the REAL ID law, this is a new responsibility for States and it is going to cost a half billion dollars. Yet in fiscal year 2006, only $38 million was appropriated for States to cover the cost of REAL ID. In fiscal year 2007, the President's budget contains no funding for REAL ID, even though $33.1 billion is to be spent on homeland security.

I intend to work this year to see that REAL ID does not become an unfunded mandate. If the Federal Government wants to create a national ID card and they want to force the States to do it, then the Federal Government ought to pay for it.

My final example: the Federal Communications Commission needs to make sure that compliance with the Communications Assistance for Law Enforcement Act, called CALEA, does not become an unfunded Federal mandate on colleges and universities.

This CALEA law is a law that communications systems have to be engineered in such a way as to make it easy for Federal agents to subject phone calls to surveillance. In August of last year, the Federal Communications Commission, recognizing that more and more telephone calls are being made over the Internet, extended the requirements of this law to colleges and university computer networks.

Implementing this order, according to technology experts, could cost $5 billion to $6 billion, a figure that translates into a $450 increase in annual tuition at most American universities.

The pages here who are listening to this are already looking forward to tuition increases when they go to college that are high enough, and they don't need another $450 on top of it.

Over the last several years, tuition college costs have increased faster than inflation. Public school tuition jumped 10 percent in 1 year—in 2004. Even though Federal funding for colleges and university has gone up, State funding has been fairly flat. So we have seen a big increase in tuition, and this is another $450.

Given these concerns, even though the FCC might have a laudable objective in making it easier to overhear or keep track of phone calls in computer networks on college campuses, if the Federal Government wants to order that, the Federal Government ought to pay for it.

I have written to the FCC urging it to exempt colleges and universities from the requirement of August 2005 in order to allow time for the development of an alternative to this $450 tuition increase.

I ask unanimous consent that my letter to the FCC on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, DC, February 6, 2006.

Hon. KEVIN MARTIN,
Chairman, Federal Communications Commission, Washington, DC.

DEAR CHAIRMAN MARTIN: I am writing to urge the Commission to exempt private telecommunications networks operated by colleges, universities, and research institutions from coverage under the Communications Assistance for Law Enforcement Act (CALEA). Requiring these networks to come into compliance with the provisions of CALEA, according to the American Council on Education (ACE), could cost billions of dollars for new equipment alone. These compliance costs would constitute an enormous unfunded federal mandate and would more than likely be passed on to students in the form of increased college tuition.

According to the statute, private communications networks are not subject to CALEA. The Commission's order states that higher education networks ''appear to be private networks for the purposes of CALEA.'' However, other language in the order suggests that to the extent that these networks are connected to the Internet they *are* subject to CALEA. In considering how to resolve this apparent conflict, the Commission should take into account the enormous costs to higher education that would result if these private networks are not exempted. According to technology experts employed by higher education institutions, compliance costs could amount to billions of dollars for new switches and routers. Additional costs would be incurred for installation and the hiring and training of staff to oversee the operation of the new equipment. Cash-strapped schools—particularly state-funded, public schools—would be faced with the choice of bearing these additional costs or, according to ACE, increasing annual tuition by an average of $450. Coming on the heels of ten years of college costs increasing faster than inflation, such a tuition increase would make it even more difficult for students to take advantage of higher education in the United States.

At this time, no evidence has been presented that the current practice with regard to wiretaps within college and university networks has proven problematic. In 2003, only 12 of 1,442 state and federal wiretap orders involved computer communications. According to the Association of Communications Technology Professionals in Higher Education, few, if any, of those wiretaps involved college and university networks.

With the explosive growth of voice over Internet Protocol (VoIP) services in recent years, the number of wiretaps involving computer communications is likely to increase. However, before sending a multi-billion dollar bill to U.S. college students, I would urge the Commission to consider an exemption for these private networks. Such an exemption could give colleges and universities more time to work with the FCC to come up with a cost effective way to support law enforcement efforts with regard to computer communications. I appreciate your consideration of this request.

Sincerely,

LAMAR ALEXANDER.

Mr. ALEXANDER. Mr. President, these are some of the big ideas in Washington, all of which may be laudable. The idea of freeing high-speed Internet from overregulation and subsidizing it, the idea of national ID cards administered when you get your driver's license so that we can do a better job of protecting our borders, and the idea of reengineering computer systems on college campuses so that it will be easier for us to fight the war against terrorists—all three may be wonderful ideas, but all three amount to unfunded Federal mandates, if they are done the wrong way.

I began my remarks by reminding all my colleagues—and especially our colleagues on this side of the aisle, those in the majority—that the Republican Party came to a majority in 1994 on a platform of no more unfunded mandates. Republican leaders said: If we break our promise, throw us out. I don't want us thrown out any more than I want any more unfunded Federal mandates.

So my purpose today, as the Governors begin to come to town, is to

wave the lantern of federalism a little bit and raise a red flag to remind my colleagues that there is now a 60-vote point of order for any unfunded Federal mandates going through here and that I and others will be watching carefully to make sure that we keep our promise.

This is a body in which we debate principles, and one of the most important principles that we assert is the principle of federalism. It does not always trump every other principle that comes up, but my feeling is it has been too far down. I want to raise it up higher, and I intend to use that 60-vote point of order to assert the principle of federalism when unfunded Federal mandates appear on this floor.

Thank you, Mr. President. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I wish to speak for a moment, first of all, about the process we are going through and then about the substance of a couple of amendments that our colleague from Wisconsin would have liked to have introduced and have a vote on it with respect to the PATRIOT Act.

Our constituents might be wondering why we are on the floor of the Senate on this Thursday afternoon discussing the PATRIOT Act. After all, haven't we passed it? Of course, the answer is, in a sense, we have passed it now several times. But there are colleagues on the other side of the aisle who have decided that rather than let the will of the Senate be carried out with adoption of the PATRIOT Act so this bill can be sent to the President so he can then sign it, thus reauthorizing the act for another 4 years and giving the tools to fight terrorism to our intelligence and law enforcement officials that, rather, they are going to make us comply with all of the procedural technicalities which they can throw in our way which accomplishes absolutely nothing but requires us to take several more days to finish the process.

What can be gained from this? Nothing at all except that we waste more time thus making it more likely that we will not have time to do other business of the Senate, especially as it gets toward adjournment later on in the year.

What we are seeing is taking something very important for the protection of the American people—the PATRIOT Act—and using it for what I believe are improper purposes and simply delay action in the Senate so that we will have less time to act on other items.

There is no basis for delaying the PATRIOT Act. The votes are there to go to the conference and have the House of Representatives approve it, again, as it already has, so it can be sent to the President. There are no amendments that are going to be brought up. We are going to have a final vote on Tuesday—and that is it. But rather than being able to accomplish that result today, we are having to waste all of this time.

What kind of a message does this send to our allies who are, first of all, a little skittish about some of the news leaks about our surveillance programs in which they participate, to some extent. We get good information from our intelligence service, and I suspect they are worried about the lack of control over our intelligence process. They are not sure, I suspect, what to make of this debate about the PATRIOT Act. They thought we had it resolved so they could work with it on the basis of the laws they understood. They are not sure.

I often wonder what Osama bin Laden is thinking. I suspect he is not getting live coverage, but he is probably getting reports somehow or other, and he must be shaking his head: I thought I was pretty clear, I am really making threats against these guys, and they are playing around. They are not taking my threats seriously.

I, for one, am taking his threats very seriously—and so does the Director of the CIA and so does Ambassador Negroponte.

Our intelligence officials and the people we have asked to do this job for us take this threat dead serious. They have asked the Congress to give them the tools they need to fight this terrorist threat. Part of the tool is this PATRIOT Act, which has now been revised and reformed and amended and gone over again, and, finally, there are now three more changes to it—and it is done.

We have the ability now to simply pass it on to the President so he can sign it, and for 4 more years everybody knows exactly what we have to work with here.

Remember the 9/11 Commission following the tragedy of September 11, when we asked this commission to analyze what we could have done better and what went wrong, part of what they said was wrong was that there was confusion in our law enforcement intelligence community about what they could and should do.

In fact, legal interpretations differed so much they felt there was a wall that separated the intelligence agencies and the law enforcement agencies from even talking to each other.

One of the things the PATRIOT Act does is makes clear that there is no such wall; that at least our law enforcement and intelligence folks can talk to each other about these terrorists.

It is most distressing that we can't simply get this bill passed on to the President so that everybody knows we have it reauthorized again for another 4 years.

As I said, if there were any rationale behind this, other than simply delaying so that we can't do other business, you might have something to bite your teeth into and debate on the floor. But in truth, this thing, when it passes, is going to be overwhelming. I doubt that we will have a handful of votes against it. In fact, we may have less than a handful, which would be 5 votes against this when we vote on it. But I thought at least it would be interesting to see what some of the objectives posed by some of the most vociferous critics of the PATRIOT Act are, what those criticisms are, to examine them so we can see exactly what the complaints are about, about what the President has called an essential tool in the war on terrorism.

When you look at the suggested amendments—again, amendments which we are not going to be voting on because we have already been through that process three times and that has thankfully come to an end—I wanted to examine a couple of amendments our colleague from Wisconsin would have offered to illustrate it is not something we should be wasting our time on. One of them has to do with something that has been in existence for 40 years, called national security letters. It is essentially a subpoena for records that is just like a grand jury subpoena.

The county attorney or the district attorney goes to the grand jury and says: I think we need the following documents in order to see whether we can make our case. They write up this piece of paper, it is delivered, say, to a hotel, and it asks for the business records: We want to know everyone who checked in and out of the hotel for the last 3 days because we think maybe this person we are after may have checked into this hotel—that would verify his presence on the night of the murder, or whatever the case—so the hotel gives them the records.

There is no expectation of privacy in the records. When the hotel clerk says: Here, sign in—and he turns it over, you can see exactly everyone else who has signed into the hotel. There is nothing private about it.

These national security letters have been used for many different government agencies. If you are investigated for Medicare fraud, for example, your doctor might get one of these security letters asking for information.

Back when the security letters were authorized, we did not have terrorism. Now we have terrorism in a big way in the last decade or dozen years. Law enforcement authorities say: You know that process we have of getting business records through the security letters is a good process, and we ought to apply that to terrorism, too. Why not? If we can investigate drug dealers or bank fraud criminals or people like that with this kind of a subpoena for records, why shouldn't we be able to do it for terrorists? That is a much bigger deal.

Now for the first time our colleagues are saying maybe we should have a court process to review this. That process exists in a totally different context. If we want a much more formal procedure, there is something called a Section 215 warrant. That is court supervised. This is the sort of light version. If it is contested, of course, you have to go to court. Most of the time the records are easily given because they are not private records.

For the first time in the context of terrorism our colleagues are saying this is an invasion of privacy and we need a court to review this. My point is, it must be very confusing to law enforcement to have Congress debating something like this when there is no rationale for changing the law of 40 years that has been applied in everyday context throughout the country, and all of a sudden where we would want the most streamlined procedure, where we would care most about the cops, where we need speed because we do not know whether an attack is imminent, for example, in the situation that is much more serious, now we are saying we need to throw some roadblocks in the way of the law enforcement tool. It does not make sense.

I thought I would take two of the amendments—we are not going to be debating the amendments, but this is the kind of thing raised as an objection to the PATRIOT Act—the kind of amendments that would be offered. It shows how unnecessary this approach is.

Let me note one other thing. There have been a lot of unnecessary amendments attached to the PATRIOT Act. It is getting to the point where I wonder whether we can really do the job, our law enforcement community can really do the job that our constituents want it to do. For example, by my count, the final bill that we will send to the President requires 12 different reports or audits of our Nation's antiterror investigators. Obviously, oversight is important. Reports to the Congress are important. But it seems to me this is overkill. Our intelligence agencies should be devoting their resources primarily to investigating suspected terrorists, not to investigating each other. All of these reports simply add to the burden they already have.

And we wonder sometimes after the fact, when a September 11 commission reports that they were too burdened to do their job, how that could possibly be. Congress sometimes can be part of the problem as well as part of the solution.

All of the changes have been negotiated and renegotiated, as I said. At some point, we need to complete the bill. There are other amendments I would like to add, but I had my chance and this is not the time to be reopening the process for yet another round of amendments. It seems to me we ought to be moving on.

I will mention this one amendment. It is actually an amendment numbered 2893 that would have been offered by the Senator from Wisconsin. This amendment would strip away the protections for classified information about suspected terrorists and terrorist organizations in the manner I discussed a moment ago. The amendment not only risks revealing our level of knowledge of our data collection methods to those who would do us harm, but it also threatens to undermine our relations with allies who supply us with a lot of information in this war or terror. They do not do that so it can be given out to the public. The purpose of classification is to see that the information remains secret. But this particular amendment would allow classified information to be compromised during the challenge to a nondisclosure order for national security letters or a FISA business records order. FISA is the Foreign Intelligence Surveillance Act. It serves no substantial interest but, as I said, can be very damaging to our national security.

Let me put this in perspective. A section 215 order—which I discussed before, which is a FISA order and is always accompanied by a nondisclosure requirement—already is judicially reviewed, as I said. There has to be a court action on it before it can be issued. And under the amendment that was offered by the Senator from New Hampshire, a third party recipient of a section 215 order also would be able to have the courts review the section 215 order after its issue, which is a second round of review. We have added that in. To my mind this is redundant and unnecessary, but that has been added. That is one of those compromises to enable us to get to this point.

Let me put this issue in perspective. A section 215 order, which provides that second round of review, is much different than a national security letter which, as I said earlier, has been around since the 1970s. They have always been accompanied by a nondisclosure requirement. In other words, when the third party is served with this subpoena that says: Would you please give us these records, you are not supposed to tell the person that a law enforcement entity is seeking the records. Obviously, you do not want to tip them off that you are investigating them. There is a nondisclosure requirement. You cannot tell the person that the Government has come asking for the records. That requirement has always been automatic, and there has never been any provision for any judicial review of that nondisclosure requirement.

The national security letters, like virtually all other subpoenas, are also not judicially reviewed before they are issued. The conference report, for the first time in the history of these national security letters, authorizes judicial review of the need for the nondisclosure of the subpoenas. That was another compromise that was added. You not only have it in the formal section 215 requirement but also in the less formal security letter process. It allows the recipient to challenge the nondisclosure requirement, and it ensures the automatic nature of the nondisclosure requirement.

Now the FBI will have to evaluate each national security letter. The nondisclosure of the NSL and the nondisclosure requirement can only apply if the FBI certifies that the public disclosure of the service of the NSL will harm national security. In other words, before it is issued, the FBI has got to have a certification that the recipient of the letter may not disclose it because to do so would be to harm national security. That certification is based upon a very solemn judgment exercised by the Attorney General.

Critics condemn this provision as giving only the illusion of judicial review. When they say that, it bears mention that what they are condemning is language that is being added to a statute that never provided any kind of judicial review before that. For over a quarter of a century there has been none whatsoever, and yet there is a complaint this judicial review is not good enough. The sponsor of the amendment argues that the standard employed for the review of the security letter and the section 215 nondisclosure requirement is too high and can never be met.

It is high, but it is very high for a reason. If a challenge is made, the FBI needs to reevaluate whether there is a continued need for the disclosure. But if the FBI certifies that disclosure of the NSL would harm national security, that reclassification is conclusive. Now, when you say ''conclusive,'' that is a very high standard.

In this respect, the proponents of the amendment are correct; that is a high standard. But it is the only way the determination can work.

Think about it for a moment. Only the FBI, the people who are investigating the matter, not individual district judges, are in a position to determine when the disclosure of classified information would harm national security. Obviously, that is not something that a Federal district judge has any expertise on. You have to have, literally, a trial to determine whether that proposition were true in each particular case.

The reason nondisclosure might be necessary should be obvious. If a suspected terrorist or his associates, for example, are funneling money through a particular bank in a city, and if that bank were to make public the fact that it had received a security letter requesting records in a terrorism investigation, that disclosure would easily tip off the terrorists and their associates that they are under investigation. You do not want to do that.

It is also important that the FBI make the final determination whether the disclosure would harm national security. And only the agents in charge of these counterterrorism investigations will be able to evaluate how the

disclosure of a particular piece of information could potentially, for example, reveal sources and methods of intelligence and who, therefore, might be tipped off as a result of the disclosure.

We are all aware of this current controversy regarding the briefing of select members of the Intelligence Committee over a particular surveillance activity involving international communications with members of al-Qaida or people suspected of being with al-Qaida. The reason not every member of the Intelligence Committee is briefed is because of what we would call ''sources'' in this case. Methods of surveillance are so secret, so classified, that it has been determined that even some members of the Intelligence Committee should not be fully briefed on exactly how this methodology works.

So you can imagine when the FBI has sources of intelligence to protect or certain methods of intelligence gathering to protect, the last thing you want is for a judge to decide that those should simply be made public.

That is why this conclusive presumption is in the law, why it is so important, and why we cannot have this section amended to open that to public disclosure of that sensitive information. Yet this amendment numbered 2893 would allow every one of the 800 Federal district judges in the country, in fact, to be their own director of national intelligence and decide for themselves whether exposing classified information would inappropriately reveal the sources and methods I discussed, whether that might tip off terrorists to what we already know about them, and whether it would harm relations with our allies who, perhaps, have provided us with the information. Obviously, that cannot be allowed. We cannot expect our allies in the war on terror to cooperate with us if we treat this sensitive information that they provide to us with anything other than the most careful consideration. And we cannot expect our agents to be successful in detecting terrorist plots if every step of the way, every time they gather information through either a security letter or the more formal section 215 process, they can be sued and forced to divulge classified information about whom and where they are looking and what methods they are using.

This amendment would do serious harm to U.S. national security. And to what end? What powerful privacy interest or civil rights interest dictates a third party asked to produce business records in its possession must be allowed to disclose the existence of the investigation or must be given access to other classified information in order to plead that matter before the judge?

When the FBI is investigating organized crime in the United States and grand juries compel testimony or require the production of records, we do not let those witnesses or the parties holding the records publicize the fact that they had been subpoenaed or publicize that there was an ongoing investigation. We recognize that secrecy is important in an organized crime investigation and it outweighs any interest that third parties might have in talking about the investigation.

Why wouldn't we recognize the same realities in a terrorism investigation, an area where the safety and security of the American people are much higher? That is the kind of amendment that would be offered. Thankfully, as I said, we decided to go forward with the process and not have any more amendments and have the vote next week which will enable us to send this bill to the President.

My point in discussing this is to demonstrate there is no reason to have further debate or amendments, and we could have gotten done this afternoon and known we had reauthorized the act for another 4 years.

The only other amendment I want to discuss is amendment No. 2892, blocking these section 215 orders even where relevance is shown. This amendment is highly problematic because it would bar antiterrorism investigators from obtaining some third party business records even where they can persuade a court that those records are relevant to a legitimate antiterrorism investigation. We all know the term ''relevance.'' It is a term that every court uses. It is the term for these kinds of orders that are used in every other situation in the country. Yet the author of the amendment argues that relevance is too low a standard for allowing investigators to subpoena records.

Consider the context. The relevance standard is exactly the standard employed for the issuance of discovery orders in civil litigation, grand jury subpoenas in a criminal investigation, and for each and every one of the 335 different administrative subpoenas currently authorized by the United States Code. These national security letters have existed since the 1970s, and they have always employed a relevance standard.

Why now that we are faced with a terrorism threat, and we decide this same investigative tool should be available to investigate terrorists would we impose a higher standard to get the information? If anything, you would be talking about applying a lower standard because of the importance of the threat and the fact that sometimes speed is of the essence.

As the Department of Justice Office of Legal Policy recently noted in a published report—I want to quote this—''Congress has granted some form of administrative subpoena authority to most Federal agencies, with many agencies holding several such authorities.'' The Justice Department ''identified approximately 335 existing administrative subpoena authorities held by various executive-branch entities under current law.''

As I said, 215 orders already are harder to get than regular subpoenas, even though the subject matter would suggest that perhaps they ought to be easier to get. In the case of these section 215 orders, the law requires that the FBI first seek a determination of relevance from a judge, which makes it harder to get a 215 order than it is to get any other grand jury subpoena or virtually any other kind of administrative subpoena because none of them require preapproval from a judge. Even a grand jury subpoena is not approved or reviewed by a judge or the grand jury before it is issued. It is issued directly by the prosecutor.

It is interesting; there was a recent online article in National Review Online by Ramesh Ponnuru, a very good writer and student of this issue, who made the following comments. This is a quotation. He noted that critics say:

> that investigators shouldn't be able to get business records merely by convincing a judge that the records are ''relevant'' to an ongoing terrorism investigation. Yet that relevance standard, from Section 215 of the law, is the exact same standard employed for discovery orders in civil litigation, for grand-jury subpoenas in criminal investigation, and for each of the 335 different administrative subpoenas currently authorized by the U.S. Code. Getting a 215 order is harder than getting a grand-jury subpoena or almost any kind of administrative subpoena, since judges don't have to review the latter [before they are issued].

Again, this is the current law. So even without an amendment, which would make it even more difficult, the law we are talking about with regard to terrorism investigations makes it more difficult in a terrorism investigation to get a subpoena than in any other situation. Yet the proponents of this amendment would make it even more difficult than that.

Now, let's imagine what this means. Here is a scenario:

> Let's imagine that intelligence agents have discovered that suspected Al Qaida agent Mohammed Atta is in the United States and that he has hired another individual to work for him. Under the Patriot Act legislation being considered now, it will be easier for the federal government to subpoena records in order to make sure that Atta is paying that individual the minimum wage than it will be to obtain records to find out if Atta is using him to engage in international terrorism.

That is not right. I was going to say something else. I will just say that is not right. This is the existing law. This is before we would make it even more difficult with the amendment I discussed a minute ago.

So without making further arguments on this point, I think you can see that we have girded this PATRIOT Act with levels of civil rights protection and privacy rights protection that we do not have in any other part of the code, even though the need for speed and the need for agility to get after these terrorists is, I would argue, a much more important matter than investigating Medicare fraud or bank fraud or money laundering of whatever it might be.

We have not imposed all of those civil rights or privacy protections in those sections of the code, but here we

are going to add them and make it even more difficult for the FBI and other law enforcement and our intelligence agencies to do the job we want them to do. Then, of course, if something happens, we will haul them before Congress and say: Why couldn't you get your job done? And when they say: Well, the statute was a little tough for us to comply with, we will say: That will be no excuse.

So we need to be very careful what we do in considering further amendments to the law.

Mr. President, let me conclude by saying that the other amendments that would have been offered are in the same vein, making it unnecessarily difficult for our intelligence agents and our law enforcement officers to do the job we have asked them to do.

When my colleagues and I have had before us on the floor of the Senate amendments to add armor to humvees or to have better bulletproof vests or to have other kinds of equipment or tools for them to carry out the missions we ask them to perform when we send them into harm's way, we do not hesitate long to give our military everything they need because we want them to succeed in their mission. We do not want them to be left vulnerable in any way. Why? Because we want to be protected and we want them to be protected.

Yet when it comes to giving our intelligence agencies the tools to fight terrorism, we shirk back and say: Well, we are going to do it, but first we are going to add several layers of additional requirements to make it more difficult for you to do your job.

In the law and in this fight against terrorism, we are generally not fighting with airplanes and ships and the like. This is a different kind of war. This is a war against a very secretive enemy all over the globe. There is really only one way to get to this enemy, and that is with good intelligence to find out who they are, where they are, and what they are up to.

So the equipment we are giving to them, the tools for them to fight terror are these provisions of the PATRIOT Act and FISA and the other activities that have been discussed. This is what enables them to perform their missions. We cannot load these tools up with so many restrictions and legal loopholes that it is impossible for them to do their job. If we expect them to be able to protect us, we have to write these laws in clear, understandable, fair, and effective ways, certainly protecting our civil rights. But I think I have demonstrated we have done that.

If you do not need all these protections if you are investigating bank fraud, then I would say, as the lawyers say: A fortiori. They are less necessary in an investigation of terrorism, where speed may be required, where secrecy is absolutely critical, and therefore where the kind of protections that have been offered are very problematic to these folks doing their job.

So the bottom line is this: We have a good act, the PATRIOT Act. It is going to be reauthorized for another 4 years. We have already added numerous protections of civil liberties to it. It is, therefore, quite appropriate that the time for amendments has come to an end, that we not have any more of these amendments brought before us—I think I have demonstrated the harm those amendments would do—that we get on to the job of getting this legislation reauthorized so we can say to our constituencies we were able to provide the tools to fight terrorism that will protect them and their families.

That is our charge. There is only so much we as legislators can do, but this is something we can do, and we need to get about doing it.

The PRESIDING OFFICER. The Senator from Hawaii.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2305 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I am sorry we are now facing another filibuster and delay of efforts to reauthorize the PATRIOT Act. We have taken 3 days this week to deal with legislation Senator SUNUNU introduced to assuage concerns he and others had about the bill. Senator SUNUNU's proposed bill guaranteed that at least four more Members of the Senate were on board to completely support a cloture vote on and final passage of the Conference Report. It certainly brought on board all the Republicans who expressed concern over the bill. But we are still going through the process of grinding down certain provisions to get an up-or-down vote on reauthorizing the PATRIOT Act. That is all we are asking for, an up-or-down vote, to determine whether we want to extend the provisions of the PATRIOT Act. That is being held up. We have many other things that are important for us to do for our country, but we have been forced to spend an extraordinary amount of time on this.

If you look around, you will see that people are not engaging the issue. The complaints—Senator KYL talked about some of them—are insubstantial. They are not the kind of serious concerns people have portrayed them to be. The act itself provides quite a number of provisions that simply allow investigators to use the same tactics to investigate terrorists, people who want to kill us, that they use to investigate wage-and-hour disputes, to investigate your taxes, to investigate drug dealers and pharmacists and drug dispensers and doctors. It is important that investigators continue to have these tools at their disposal.

It is unfortunate we have had this obstruction. We have seen a pattern of it, frankly. The more time we spend on delaying these kinds of provisions, means that at the end of the year there will be a jammed-up calendar. We will have appropriations bills that have to pass, and other bills that need to pass. All the days we had at the beginning of the year have now been frittered away on rearguing things that we have argued and settled before.

I don't mind debate. Senator FEINGOLD has come down and spent a number of hours expressing his concerns. I respect him. He is a most articulate opponent of the act. He has certainly studied the act. We don't agree, but I respect that. But we went through all this in December for days on the floor of the Senate, debating these same issues. With Senator SUNUNU's compromise and suggestions for improvement that have been accepted, the basis for many of those complaints have gone away. Now we are taking another big, long time to reargue settled issues. I believe the majority leader, Senator FRIST, is justified in his frustration that something that has been debated completely and fully and that now has a clear majority of Senators prepared to support it is being held up, delaying all the processes of the Senate.

Let's talk about the merits of the bill and how the law deals with certain issues for which we have heard objections. One of the biggest items and perhaps the biggest issue that Senator FEINGOLD and opponents have raised has been the delayed search warrants. The bill that came out of the Senate was passed by unanimous consent. We moved the PATRIOT Act reauthorization out of the Judiciary Committee by a unanimous vote. We moved it out of the Senate by a unanimous vote. The House passed a bill by an overwhelming majority. The House and the Senate bills went to conference, and they discussed it. We made concessions on each side.

Senator SPECTER, chairman of the Judiciary Committee, a man who certainly has been respectful to civil liberties, has stated that he believes about 80 percent of the compromise that was reached favored the Senate version, not the House version. The House conceded on more issues than the Senate. They gave more than the Senate did. The bill that came out of conference was very close to the Senate bill. Then we hit the Senate floor, after having a unanimous vote, and now we have a filibuster. It is, indeed, frustrating.

Let me talk about the delayed search warrants. What the PATRIOT Act does is to codify, to make a part of the law of the country, provisions for delayed notice search warrants. Delayed notice search warrants are not, as some have said in the Senate, an unusual procedure. Delayed notice search warrants have been in use for decades, long before we passed the PATRIOT Act. This act did not create any new authority or close any gap because there was no gap to close. The PATRIOT Act simply created a nationally uniform process and standard for obtaining a delayed notice search warrant.

Some have said: The court said 7 days is what you ought to delay notice. That is the maximum time you should delay notice. That is not quite accurate. The Ninth Circuit, the most liberal circuit in the United States, the most reversed circuit in the United States by the Supreme Court, has held in one case that delayed notice search warrants that explicitly provided for notice within a reasonable period of time by the judge issuing the warrant pass constitutional muster under the fourth amendment. They said a delayed notice search warrant does pass constitutional muster. Then they went on to ask, though, what is a reasonable period of time? They defined it as 7 days, absent a strong showing of necessity. That is what the Ninth Circuit said, the most liberal circuit in America. But other courts, such as the Fourth Circuit, have upheld much longer initial delays as constitutional. For example, the Fourth Circuit has determined that a 45 day period for delayed notice is constitutional. The Fourth Circuit did not even suggest that 45 days was the upper limit. They simply concluded it was reasonable in those circumstances. The truth is, there is no standard set under current law by the courts that would mandate a specific period of time for a delayed notice.

When the House of Representatives passed its version of PATRIOT Act reauthorization, it called for 180 day delayed notification period. The vote in the House was 257 to 171, a bipartisan vote of Republicans and Democrats, to approve overwhelmingly a delay of 180 days. The bill we sent to conference had a 7 day delayed notification provision in it. When the conference reported the bill, it tilted much closer to the Senate bill. It came out with 30 days, less than the 45 that the Fourth Circuit had approved, more than the Ninth Circuit had said. And it was a perfectly logical process we went through.

About the importance of delayed search warrants in terrorist investigations, I can't express how strongly I believe that this has the potential to be the most significant provision in our legislation, the PATRIOT Act. Time and time again, Federal investigators, working with State and local investigators, determine that groups are involved in terrorist activities. They don't know all the people who are involved. They don't know the full extent, but they have probable cause to establish that they are violating or planning to attack the United States or are participating in a conspiracy to kill people to further their terrorist goals. So what do you do then?

Under the PATRIOT Act—not the National Security Act or what we have talked about, the national security intercepts you have heard so much about in the paper; those are international and involve the President's inherent authority—under the traditional law of America, what do you do if you have probable cause to believe these groups are meeting, that there is some sort of sleeper cell in existence, you have proof, not just suspicion, proof to the level of probable cause that they are participating in this scheme?

One of the most potentially beneficial things would be to get a search warrant for that house. But if you do it under normal conditions, when you have to conduct a search warrant if the defendant is not there, you provide him notice that you have conducted a search warrant. When you come to the door and before you go in, if no one is there, you have to leave a return on the door showing that you searched the place and any items you seized and who to contact. That is what you normally do in a search warrant.

Police officers do that every day. But first they go to a judge and they swear under oath that they have probable cause, and not only say they have it, they spell it out. And judges, on appeal, can review it. If the judge who approved the search warrant was in error, they can reverse it or the evidence can be excluded from trial. So you go to a judge. We are not in any way changing that great principle that a U.S. Federal judge or a State judge would have to approve a search warrant. You are not changing in any way the principle that they have to have probable cause under oath that evidence exists at the scene of the place searched which would be relevant to an investigation. All of that is the same as it has always been.

But the one critical thing—and this has been legitimated by courts and approved by the U.S. Supreme Court—is that you can, in certain cases, ask that the notice which you would normally give to the owner of the residence or the person who has custody and control of that location be delayed.

Now, this can be absolutely critical in a case of national security. It is so important. Please, I want you to understand that. You may be able to go in that area and find names, phone numbers, records, or bank deposits that would identify a whole group of other people, and you are not ready to arrest them that moment because you don't know where they are located. You need to check this out and follow up on it. If you arrest that bad guy and give notice to the people right there, the whole world will know it, and they will spread the word and they will scatter. That is exactly what will happen. So that is why, in certain instances, law enforcement officers have sought, and courts have approved without the PATRIOT Act, delayed notice search warrants.

So then when do you notify the person? All the PATRIOT Act says is that the police officers can delay notification for 30 days. At the end of that 30 days, if they don't come back to the court and show a legal basis to continue to delay to notify the defendant, they have to notify the defendant on the 30th day. That is all this Conference Report says. That is reasonable. It is not an abuse of the power of the Congress. It is not in any way contradictory to the great traditions of law enforcement in America. It has nothing to do with the President's Executive powers to fight a war. This is under the criminal law aspect of American justice.

I asked for delayed notices on rare occasions when I was a Federal prosecutor. I am telling you, whether investigating a big drug gang or a Mafia group, these are the kinds of things which can make all the difference in the world. And it is even more important in terrorist investigations because these people will scatter and because it is a matter of life and death. That is all I am saying. There is nothing unusual or strange about it.

The Department of Justice wrote a letter which said that a delayed notice warrant differs from an ordinary search warrant only in that the judge authorizes the officer executing the warrant to wait for a limited period before notifying the subject of the search because immediate notice would have an adverse result, as defined by statute, that could undermine the investigation. So this is all this is about. I think few people would dispute it. Yet we have a filibuster because some Senators apparently believe that 30 days destroys the Constitution. They believe that it violates the Constitution to ask the police officer to wait 30 days before they notify the defendant.

The House of Representatives, by an overwhelmingly bipartisan vote of 257 to 174, voted to allow the officers to delay 180 days. So now we have been here 3 days debating this issue this week. This is the No. 1 complaint they have about the bill. I don't know what it is that got us to this point.

The conference report before us today eliminates the possibility of an open-ended delayed notice. It requires notice within 30 days unless the court grants an extension. Current law allows for simply a reasonable delay, which is whatever the judge may decide in a given case. Well, they say, why do you need 30 days? Well, the Fourth Circuit found that 45 days is good enough. I will give this example which the Department of Justice gave: Operation Candy Box. A delayed notice was permitted in a multijurisdictional investigation targeting a Canadian-based ecstasy and marijuana-trafficking organization. The delay allowed for a successful, uninterrupted, month-long investigation that resulted in the arrest of over 130 people. Without delayed notice, agents would have been forced to reveal the existence of the investigation prematurely.

As a Federal prosecutor myself, I want to tell you, one of the biggest decisions in any investigation of any organized criminal group or terrorist group is the decision of when to conduct the takedown. When do you arrest them? Do you run out as soon as you know there is a group and you have

evidence on one of them—do you run out and grab that one? How stupid can you be? If you grab one, the rest will know it and know you are going to come after them; they are going to scatter or they will destroy evidence. They will run and hide, and they may create a sleeper cell in a different city and continue their plans to kill Americans or to sell dope or whatever it is they are doing illegally. So you have to plan the takedown.

When you are dealing with cases involving life and death, you have to be very careful about it. Don't think the agents don't work with prosecutors and staff people and plan out these takedowns to the most minute detail. When do you do it? Do you catch six low-level flunkies and let the big guys get away? No. Someone might say the big guy is coming into town the next day, so we will have a team there and we will have probable cause to arrest him. Then you get a search warrant. When do you execute the warrant? You want to execute it at a time of your choosing so you can wrap up as many of the members of the organization as possible at one time. That is what it is all about.

Sometimes you need to know more about this organization. You don't know all the people who are involved. That is where a delayed notice warrant can allow you to obtain information about other people who are involved and do further investigations and find out, maybe, that two or three dangerous criminals should also be arrested at or about the same time. They will provide you the probable cause to arrest them because you cannot arrest people without probable cause in America. You have to have evidence. You cannot just arrest somebody on suspicion.

So where do you get the evidence? Some people in this Senate forget that police officers are not magicians; they have to gather evidence. How do you get it? One way you find out the evidence is to conduct a lawful search on a warrant approved by a Federal judge or a State judge. If it is a Federal crime, it would be a Federal judge. Then you may execute a delayed notice warrant, and you may find more evidence of other people that can be corroborated and you can build up probable cause. And instead of having probable cause to arrest just 2 defendants, you may have probable cause to arrest 8 of them, and maybe you take down the whole sleeper cell. Maybe there are 8 in this town and 4 more in Boston and some more in San Diego or in Washington, DC. You can arrest all three or four cells at the same time. Would that not be the ideal thing?

I am telling you that this is what law enforcement officers attempt to do every day. They do it according to the laws that we require.

In 2002, the issuance of a delayed notice search warrant helped break a massive multistate methamphetamine ring. The delayed notice allowed investigators to locate illegal drugs, which provided further leads, eventually resulting in the seizure of mass quantities of drugs and the identification of those involved in the criminal organization. More than 100 people were charged with drug-trafficking offenses, and a number of them have been convicted.

In another case, a delayed warrant was issued to search an envelope which was sent to the target of an investigation. An envelope had been sent to the person, and they got a warrant to search the envelope. The search confirmed that the target was operating an illegal money exchange and was funneling money to the Middle East, including to an associate of an Islamic jihad operative. Delayed notice allowed the investigators to conduct a search without compromising an ongoing wiretap they had been carrying on based on probable cause, and with the approval of a U.S. District judge. But they didn't just conduct a wiretap; they were conducting this wiretap and they needed to find out if money or drugs were moving so they could seize that or allow the package to continue and then arrest the person who received it.

That is what we are talking about here. That is why there is nothing extreme in any way about the delayed notice search warrant law.

Well, what about the national security letters? You have heard a lot about that issue. The complaint is that Senators have said this will allow you to obtain information from people not connected to terrorists or spies. The national security letters, which existed long before the PATRIOT Act, can only be in a certain specific and limited number of circumstances.

Now, I will talk about those in a moment, but they are listed in 5 statutes, so it is not an open-ended provision. It only deals with national security issues. The procedures set forth in this act which allow those letters to issue are in no way extreme. They in no way threaten the great liberties all of us share but indeed are essential tools in this age of national security threats to our country, and they can be critical, critical, critical facts for investigators to enable them to identify those cells which may be in this country trying to attack and kill American citizens, as we saw on September 11.

I want to emphasize that national security letters existed long before the PATRIOT Act and can be used in only very limited circumstances for national security issues. In fact, it is a particularly valuable tool that is utilized frequently by investigators. The New York Times said there have been a lot of national security letters issued since 9/11. Well, we are doing a lot more investigation. Every FBI office in America is pursuing every lead that pops up, unlike what we were doing before 9/11, and are verifying and checking out and determining the kinds of things that are necessary to find out, such as if someone may be connected to a terrorist organization and may be planning an attack on the United States. Isn't that what we demanded after 9/11? But the numbers that have been published are clearly exaggerated. They are not accurate, and they have been criticized by the officials who are involved. I add that parenthetically.

The PATRIOT Act originally made very few changes to the national security letter procedure. It merely made relevance the standard for obtaining a national security letter and allowed special agents in charge to issue them. The special agent in charge would be the special agent in charge of the FBI office in New York City, for example, or in Boston or in Birmingham, AL, and those special agents in charge supervise everyone in the office. They are considered to be high-ranking FBI officials responsible for the law enforcement issues relating to their agency in that district. So this was what we originally passed.

However, now under this conference report, the national security letters are to be used only for investigations involving terrorism and espionage, and they must pertain to ''an authorized investigation'' involving ''national security.''

These are national security investigations. National security letters cannot be used to obtain unlimited categories of material. They can only be used to obtain very limited categories of material in the possession of third parties, not the defendant. The great protections against the searching of your home have not been undermined. What we are talking about here are records that are under the dominion and control of a third party. You can say they are your bank records, but they are the bank's records. You can say they are your telephone company records, but they are the telephone company's records.

The law has always made a big distinction between the kind of proof you have to have for someone to come in and search your desk, to search your automobile, to search your home, than the kinds of procedures they have to go through to get the record at the local motel that might have your name on it. It is not your record, it is the motel's record. You have a diminished expectation of privacy. The courts have consistently held this view ever since the issue has been discussed. It is a fundamental part of daily law enforcement in America.

So they can be used only to obtain these kinds of records, not records you have under your control that would require a search warrant approved by a judge on probable cause, as I discussed earlier, as you would in a delayed search warrant case. It is a big deal. I am telling you, in a case such as this, I bet you search warrants would be 30 pages of affidavits to justify what they are searching for. But these are simply subpoenas, basically, for these records.

These records, as I said, belong to companies, and the individuals to

whom they refer have a reduced privacy interest in them. These national security letters cannot be used to obtain ''content information'' that involve any communications you may have made or the words of those communications with the phone company, but simply what the billing record said and the phone numbers you called. But you can't get, through a national security letter, the words of your phone call or intercept or record your phone call in any way, or your e-mails. The content of your e-mails can't be obtained with a national security letter. The national security letter is simply a request by a national security investigator for records.

If the recipient such as the bank, for example, objects, the FBI cannot compel production without going to court. The conference report specifically allows the recipient, however, of a national security letter to move to quash or dismiss or modify the national security letter and to challenge the nondisclosure order that accompanies the national security letter, and to talk to their attorneys about it if they choose, and other people who may be necessary to comply with the national security letter.

Some people say the nondisclosure requirement can keep you from speaking with your attorney. This legislation specifically allows you to talk to your attorney or anybody else who is related to it before you decide to utilize a motion to quash.

Let me share this with you. Imagine, now, you are an investigator, an FBI agent, and you have serious cause to believe that an individual may be connected to a terrorist organization. You want to find out if they have been calling Kabul, Baghdad or Islamabad. It is critically important, at a preliminary stage in an investigation such as this—critically important, I emphasize—that the people being investigated not know that they are being investigated, that the investigators are on to them. That is why we placed in the law the limitation that the person or entity subpoenaed should not go and tell the people that the Feds are out there asking for your bank records or your telephone records. How can you conduct an investigation? From these records is the way the police officers and FBI agents get the probable cause to conduct a search warrant.

How do you get probable cause to conduct a search warrant? You take lesser steps to obtain information that is available to you, and it builds up until you get enough to have probable cause to go a judge to get a search warrant to search the home and you may even want to delay notice to the people at the home until you can be sure that everybody in this organization is known to you and they can all be arrested before they can get away. So that is what this is all about. It is perfectly logical and part of our law enforcement heritage.

In the conference report that is before us, it also provides an express right to judicial review for all types of national security letters, allowing courts to modify or quash the order if compliance would be unreasonable, oppressive or otherwise unlawful. It also changed the certification requirement. It requires a higher level of certification before you can ask for nondisclosure in the issuance of a national security letter. The nondisclosure requirement is not automatic. Local FBI cannot ask it. The local special agent in charge can't ask for it. Now it has to be invoked by one of the top officials of the DOJ in Washington, an official who must certify that disclosure would ''endanger the national security of the United States.''

I want to say that is too high a standard. We are going to fail to execute requests for mere documents in control of banks and telephone companies and motels and records of that kind because a DOJ official in Washington is going to be nervous about whether he has enough proof to certify that this matter would endanger the security of the United States. That is too high a standard. But it is in this bill because the civil libertarians wanted to put it in here.

Any county district attorney in America this very day can issue a subpoena to a bank or to a telephone company to get your phone records or the records from your doctor. This is not unusual that investigators can obtain documents in the possession of third parties. Please hear me. I know Senator KYL made the comment that it is easier for an investigator to obtain your business records relating to whether you have paid withholding tax than it is for an investigator, under this case, to get records of whether you are connected to a terrorist organization.

I would add a few other examples. A Federal drug officer, a DEA agent, can walk into any pharmacy in America today and examine the pharmacy records that exist to see if somebody has submitted false documents, is overpurchasing drugs or the pharmacist is failing to keep records. He can examine all the records that are there. He doesn't have to have a warrant or a national security letter.

The IRS agents investigating whether you paid your taxes can subpoena your bank records by an administrative subpoena that does not require a grand jury approval or approval of any prosecutor. He can do it as an part of an administrative subpoena because they are not your records. But if he goes into your house and tries to take your personal documents, that is not so because he has to have a search warrant. A provision requiring this high level of certification is important protection for sure, and the standard imposed on the top FBI official I believe is too high. I believe one day we are going to regret it.

An express right to challenge the nondisclosure requirement is included in the conference report. An express right to disclose the receipt of a subpoena to a attorney is protected. There is the requirement that the Department of Justice Inspector General must audit certain past and future uses of national security letters and provide a public report on the aggregate number of national security letters issued concerning U.S. persons. But IRS agents out there in every community in America are issuing subpoenas for your records by the thousands every week. They don't have to maintain these records.

Senator FEINGOLD and others, I am sure, would be pleased to note that the House passed a 1-year misdemeanor for knowing and willful disclosure of a national security letter with no intent to obstruct the investigation, which the Senate dropped in conference. The House of Representatives' bill said if you violate the requirement that you not disclose, and run out and tell the people whose records have been subpoenaed, you would be subject to a misdemeanor. But, oh, no, they objected to that. So now, apparently, there is no penalty if someone violates the act and tells the terrorists that you are investigating them. That ought to make people happy. We ought to feel a lot better that our liberties are being protected.

Under the conference report, recipients of a national security letter can challenge the nondisclosure requirement after 2 years, a time period where the national security interests involved will be dissipated. The Sununu bill on the floor today, that was designed to complement the conference report and to alleviate some concerns a few Senators had, allows nondisclosure to be challenged after 1 year and each and every year thereafter. Some opponents of the report wish to see sunsets placed on National Security Letters. National security letters have never been subject to sunset. They are currently governed by six permanent statutes in the code already. No abuses of national security letters have surfaced, and a New York Times article that suggests these large numbers have been issued contains many inaccuracies and that is not accurate.

I want to emphasize that. Nondisclosure is absolutely critical in national security cases. Frankly, in reality, bankers and medical doctors and others who may have records subpoenaed or requested by the national security letter, for the most part, do not desire to tell the person if the FBI agent asks them not to. But they go to their lawyers, and we have gotten so lawyerly today, the lawyer may tell them: Well, I think you have an obligation to tell this bad guy that the FBI came by and picked up his records. If you don't tell him, maybe he can sue you.

So this is a protection for the bank, for the phone company, for the doctor who gets these records subpoenaed because then he can rightly tell anybody who complains after the fact: I would have told you, but the Federal Government told me not to.

Section 215, the FISA Court business record production orders, is another matter of importance. Section 215 orders for the production of business records allows the FBI to go to the FISA Court and seek these orders. You have to go to court now and seek a judicial order of the FISA Court for ''the production of tangible things, including books, records, papers, documents and other items'' for an investigation to obtain foreign intelligence information. It doesn't allow the FBI to go out and do it on their own. They have to go to court and present evidence that would justify production—basically, a form of subpoena authority. Section 215 orders must be preapproved by a judge and cannot be used to investigate ordinary crimes or even domestic terrorism, only foreign terrorism.

Orders for the production of business records under the USA PATRIOT Act, section 215, are not and cannot be used for so-called fishing expeditions. The fishing expedition complaint is wrong—wrong—wrong—for three reasons. First, section 215 orders are court orders that must be authorized by Federal judges prior to issuance. Judicial review will cull out fishing expedition requests. Second, section 215 orders are available only for authorized national security investigations, not your run-of-the-mill investigation, a category that certainly does not include fishing expeditions. And the conference report clarifies that the orders cannot be used for threat assessments. Third, rigorous guidelines issued by the Attorney General govern when the FBI may use a section 215 order.

There has also been uproar over the three-part relevance test. The Senate bill included an unworkable and burdensome three-part relevance test. You recall—relevance plus. I opposed it. It was not good. I steadfastly believe that it was the kind of confusion that blocks legitimate action under this law and would undermine the ability for the investigators to do what we intended to authorize them to do. The test would have compromised the ability of the Government to get section 215 orders. The language of the three-prong test was ambiguous and would inevitably have resulted in major complications in terrorist investigations.

As we saw by the attacks on 9/11, seemingly small or technical barriers can make a critical difference to the success of a terrorism investigation. That is exactly what the three-prong test would have done.

Senator KYL, who spoke earlier this afternoon, Senator ROBERTS, who is chairman of the Intelligence Committee, and I sent a letter to Chairman SPECTER, expressing our strong concerns with the three-prong test and asking him not to include it in the conference report. He did as we suggested. The conference report retains the three-part test only as a way to prove relevance. The conference report lists the three prongs of the Senate test as ways the materials sought are presumed to be relevant.

No. 1, the records pertain to a foreign power or an agent of a foreign power; No. 2, the records are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or, No. 3, the records pertain to an individual in contact with or known to a suspected agent of a foreign power.

As Senator PATRICK LEAHY explained in 2001, the ranking Democrat on our committee:

> The FBI has made a clear case that a relevance standard is appropriate for counterintelligence and counterterrorism investigations as well as for criminal investigations.

Let me just say this. Your county attorney in every county in America can issue a subpoena for your bank records, your telephone records, on the basis of relevance to an ongoing investigation.

That is how subpoenas are issued. It has always been a relevance standard. I don't see anything unusual about this at all. We provided additional protection for relevance.

The conference report also requires the application for a 215 order to include a statement of fact which shows ''reasonable grounds to believe that the records are relevant to an authorized national security investigation.'' The original PATRIOT Act simply required a showing that the records ''were sought'' for an authorized investigation. This is a Senate provision which was included in the conference report which certainly made it more difficult to obtain these national security letters, and I assume it made colleagues who have been objecting happy to see this higher burden of proof placed on the investigators. Frankly, I believe that was unnecessary.

Both the conference report and bill we are currently debating—Senator SUNUNU's PATRIOT Act Amendments bill—imposed new civil rights safeguards on the use of section 215 orders contained in the PATRIOT Act as it currently exists. So by blocking the PATRIOT Act which presently exists from being reauthorized by the Conference Report, civil rights are being diminished since the report provides enhanced protection.

The conference report clarifies and makes clear that a recipient of a 215 order has an explicit right to disclose or seek an order through an attorney and to challenge the order in court. Senator SUNUNU's bill which we are debating today and which I am certain will pass goes a bit further. I do not know that it is critical, but I am willing to accept things that are not perfect by my standards because I know we need to reauthorize the PATRIOT Act, and this is a condition of reauthorizing it. Senator SUNUNU's bill lays out the process by which a person receiving a section 215 production order may challenge the legality of that order. They can file a petition with the FISA Court, and that petition is ''immediately'' assigned to a judge who, in 72 hours after the assignment, ''shall conduct an initial review of the petition.''

The conference report also retains a 4-year sunset on section 215. In other words, this provision will expire in 4 years unless reauthorized. I don't know why that is necessary, but people apparently believed it was, and so we put it in there.

The conferees added a requirement that the Justice Department institute ''minimization procedures'' limiting the retention and dissemination of information obtained through a section 215 order for certain particularly sensitive material. The FBI request for these orders must be approved by one of three top officials at the FBI: the Director, the Deputy Director, or the Executive Assistant Director. One of those three top officials in the FBI has to sign off on it if it includes library records, medical records that would identify a person, library patron lists, book sales records, firearms sales records, tax return records, or educational records. This is a Senate provision that was accepted by the conference.

The IRS agents can walk in any time and get your tax records, for heaven's sake, but we can't get a terrorist's tax records without going through the FISA Court. A DEA agent can go into a pharmacy and examine every record in there to find out how many drugs you may have bought or anybody else may have bought. The IRS can subpoena your bank records by administrative subpoena without even the approval of a Federal prosecutor. This is not any erosion of American liberties, is the only point I am making.

Again, this does not allow them to go into your house, into the desk you own at your office, and search your personal belongings. It does not allow any Federal agent to open the trunk of your automobile, to go in your automobile, open your glove compartment, and seize anything you may have that is in your personal custody and control. You still have to have a search warrant approved by a judge on probable cause. This involves materials held by third parties.

Documents which can be obtained in this fashion are limited to the types of tangible things which could be obtained under grand jury subpoena or other Federal court orders, and the FBI must craft procedures to minimize retention and dissemination of materials gathered under this provision. OK. We will try to destroy them in so many months to minimize the danger that somebody will have a file on you. I am telling you, if you like those shows on television, the real-life cold-case files, you see where the records held for 10, 15 years turn out to be the key documents in convicting some murderer 15 years down the road. I really do not like this idea that a properly obtained document or record kept as part of a confidential investigative file has to be destroyed prematurely. But that is what we have here so people's liberties won't be undermined.

Under the conference report, the Department of Justice must conduct two

audits of the FBI's use of 215 orders, enhanced congressional and public reporting is required, and the inspector general is required to conduct an audit of all section 215 requests since the passage of the PATRIOT Act. The ironic thing is if those who support a filibuster succeed in preventing a vote on the bill, these additional civil liberties safeguards won't become law.

The language about the libraries included in Senator SUNUNU's bill is also a concern of mine. Opponents of section 215 have tried to create the impression that the FBI is using section 215 to visit libraries nationwide to check the reading records of ordinary Americans. How often have you heard that?

Rebecca Mitchell, director of the Alabama Public Library Service, has a different point of view. She wrote me a letter on August 15 and said:

I want to personally thank you for your strong leadership to stand on the PATRIOT Act. Our libraries should not be used as a tool for terrorism. I know you have received negative comments from the American Library Association on your stand, but this is not the opinion of most librarians in our State. Please continue to fight to keep our Nation free.

The point I tried to make was that there is no special protection for a library record which would bar a Federal terrorist investigator from obtaining those records. Your local county attorney can subpoena them the same as any Federal investigator to try to stop a terrorist.

Neither section 215 nor any other provision of the PATRIOT Act specifically mentions libraries or is directed at libraries. Nevertheless, as Director Mitchell points out, it is important that library records remain obtainable as one of the kinds of ''tangible records'' a section 215 order can reach. Intelligence or investigators may have good and legitimate reasons for extending to library/bookstore records.

I would just point out that I prosecuted a number of cases. I prosecuted one guy—they made a television show about it—and we got his records and got a search warrant and seized items he had. He had a book called ''Death Dealers Manual.'' He had a book called ''Deadly Poisons.'' That was relevant evidence to help convict him of a crime.

So we are not going to allow a prosecutor access to this information. A guy may say: I don't know anything about medicine; I have never studied it. If the prosecutor goes down and checks with the library and subpoenas the records and sees that he bought three books on medicine, that may be relevant evidence to an important case. So to say that somehow library records can't be subpoenaed as part of an investigation goes beyond the pale, frankly. But because the Library Association had a fit and they complained, we have put in special protections for libraries, virtually like the spousal privilege or the priest-penitent.

I will conclude my remarks by saying that I do remain frustrated—not at the good intentions of my colleagues. They are well intentioned. Our colleagues really want to improve liberty in America. But the truth is, they have gotten off base. We have let outside groups with agendas confuse people about this legislation—confuse them as to whether historic civil liberties are being undermined when they are not—and as a result, we have had more difficulty passing this bill than we should have.

I see the Senator from Texas is presiding. I appreciate his patience in listening to me. As a former attorney general of Texas and a former member of the Supreme Court of Texas, he is a thorough scholar in these issues. I am proud to say that though he wouldn't agree with everything I have said, but in general he agrees with my view that this act is sound. He has been a steadfast advocate for it and understands the necessity of it and that it does not undermine any of the classical liberties we as Americans take for granted.

I yield the floor.

Mr. OBAMA. Mr. President, 4 years ago, following one of the most devastating attacks in our Nation's history, Congress passed the USA PATRIOT Act to give our Nation's law enforcement the tools they needed to track down terrorists who plot and lurk within our own borders and all over the world—terrorists who, right now, are looking to exploit weaknesses in our laws and our security to carry out even deadlier attacks than we saw on September 11th.

We all agreed that we needed legislation to make it harder for suspected terrorists to go undetected in this country. Americans everywhere wanted that.

But soon after the PATRIOT Act passed, a few years before I ever arrived in the Senate, I began hearing concerns from people of every background and political leaning that this law didn't just provide law enforcement the powers it needed to keep us safe, but powers it didn't need to invade our privacy without cause or suspicion.

Now, at times this issue has tended to degenerate into an ''either-or'' type of debate. Either we protect our people from terror or we protect our most cherished principles. But that is a false choice. It asks too little of us and assumes too little about America.

Fortunately, last year, the Senate recognized that this was a false choice. We put patriotism before partisanship and engaged in a real, open, and substantive debate about how to fix the PATRIOT Act. And Republicans and Democrats came together to propose sensible improvements to the Act. Unfortunately, the House was resistant to these changes, and that's why we're voting on the compromise before us.

Let me be clear: this compromise is not as good as the Senate version of the bill, nor is it as good as the SAFE Act that I have cosponsored. I suspect the vast majority of my colleagues on both sides of the aisle feel the same way. But, it's still better than what the House originally proposed.

This compromise does modestly improve the PATRIOT Act by strengthening civil liberties protections without sacrificing the tools that law enforcement needs to keep us safe. In this compromise:

We strengthened judicial review of both national security letters, the administrative subpoenas used by the FBI, and Section 215 orders, which can be used to obtain medical, financial and other personal records.

We established hard-time limits on sneak-and-peak searches and limits on roving wiretaps.

We protected most libraries from being subject to national security letters.

We preserved an individual's right to seek counsel and hire an attorney without fearing the FBI's wrath.

And we allowed judicial review of the gag orders that accompany Section 215 searches.

The compromise is far from perfect. I would have liked to see stronger judicial review of national security letters and shorter time limits on sneak and peak searches, among other things.

Senator FEINGOLD has proposed several sensible amendments—that I support—to address these issues. Unfortunately, the Majority Leader is preventing Senator FEINGOLD from offering these amendments through procedural tactics. That is regrettable because it flies in the face of the bipartisan cooperation that allowed the Senate to pass unanimously its version of the Patriot Act—a version that balanced security and civil liberty, partisanship and patriotism.

The Majority Leader's tactics are even more troubling because we will need to work on a bipartisan basis to address national security challenges in the weeks and months to come. In particular, members on both sides of the aisle will need to take a careful look at President Bush's use of warrantless wiretaps and determine the right balance between protecting our security and safeguarding our civil liberties. This is a complex issue. But only by working together and avoiding election-year politicking will we be able to give our government the necessary tools to wage the war on terror without sacrificing the rule of law.

So, I will be supporting the PATRIOT Act compromise. But I urge my colleagues to continue working on ways to improve the civil liberties protections in the PATRIOT Act after it is reauthorized.

Mrs. FEINSTEIN. Mr. President, today the Senate will take up the conference report on the USA–PATRIOT Reauthorization and Improvement Act, as modified by an agreement reached last week.

I am the original Democratic cosponsor of the unanimously passed Senate bill, as well as a cosponsor of the Combating Methamphetamine Epidemic

Act and the Reducing Crime and Terrorism at America's Seaports Act, both of which are incorporated into the conference report.

I will vote in favor of cloture on this bill, and will vote in favor of the bill when and if it comes to a vote.

At the end of last year, after careful consideration, I voted against cloture on the conference report. I took this step because of two basic concerns, both of which have been substantially diminished by the agreement which is before us today. These changes, and the fact that a consensus agreement has been reached, are the reason I am changing my position.

My first concern was with some of the provisions of the conference report. Specifically, the conference report did not provide adequate judicial review of so-called gag orders associated with the issuance of national security letters, and required those who wanted to contest these orders before a court to disclose information about their legal counsel to the FBI. This was unnecessary and inappropriate, and it has been changed.

The revised conference report clarifies that a gag order will be reviewed by a Federal court and ensures that this review will include an inquiry into whether the Government is acting in bad faith. The compromise also eliminates the onerous requirement of prior notification to the FBI about legal counsel.

On the other hand, the revised conference report does not go as far as I would have preferred. It does not adopt the original Senate language with respect to the standard to be applied for granting a Foreign Intelligence Surveillance Act warrant for physical items, including business records. This issue, usually referred to by its PATRIOT Act section number, 215, remains very controversial, and I believe the language could permit inappropriate fishing expeditions if not carefully monitored. However, the agreed-upon language does make clear that libraries performing traditional functions are largely exempt from the more intrusive aspects of the law.

Importantly, the conference report retains and extends sunset provisions on the most controversial provisions, including section 215. This is critical, as these sunset provisions, which expire in 2009, are an important element of the continued vigorous oversight necessary to ensure this law is carried out in an appropriate manner.

The second concern I had was that it appeared that efforts to forge a compromise bill had fallen apart, with acrimony and rancor marking the progress of negotiations. This was, in my view, tragic.

I have long been a supporter of the USA–PATRIOT Act. I believe it is a critical tool in defending the Nation against terrorism. But I believe that it is a tool that is most effective when it is accepted as a bipartisan, nonpolitical, effort. Simply put, if there is one area where partisan debate and petty politics have no place, it is in the area of national defense against terrorism.

So I believed strongly that a compromise bill supported by Members of both parties was essential. I recognize that achieving consensus means, almost by definition, that nobody will be completely happy with the outcome. As I noted, there are changes I would have made to this law, and I am sure most of my colleagues, Democrats and Republicans, would like other changes. But compromise and consensus require concessions and flexibility. That is why I will vote today against cloture, and why I plan to vote for the bill itself.

I explained my views in a letter I sent to the Attorney General in December. In that letter I explained, and I quote:

It was clear to me that Senate and House negotiators had come very close to reaching agreement on the Conference Report. I believe this was critical, because only through such a consensus approach can we ensure that the Patriot Act does not continue to be polluted with partisan rancor. This law is extremely important to the safety of America, and its effectiveness depends in large part on ordinary Americans believing it is a product not of partisan politics, but of reasoned debate and compromise. Because I believed consensus was so close at hand, and so important, I voted to provide Congress additional time to resolve the last points of disagreement.

Thus I was disheartened to hear that the Administration has determined not to encourage further discussion on improving and refining the Conference Report—rather, to stand fast, and urge Senators to change their votes. I hope that this is not the case. . . .

With that hope, I ask that you direct your staff to work with both Republicans and Democrats to address the few remaining issues. I am confident that good-faith discussion, honest debate, and careful drafting can reduce, perhaps even eliminate, some of the points of disagreement. . . .

It is critical that the Congress and the Administration demonstrate our ability to work towards consensus and agreement. I hope you will work with me to that end.

The USA–PATRIOT Act has come to be terribly misunderstood. Some think it is related to Guantanamo Bay and the detention of prisoners. Others are convinced that it authorizes torture or the secret arrest of Americans. It does none of these things.

At the same time, some have irresponsibly sought to characterize anyone who seeks to improve, or criticize, the law as somehow ''playing into the hands of the terrorists.'' They have implied that the USA–PATRIOT Act would expire in its entirety, and that we would be left with no defenses against terrorist attacks. This, too, is untrue.

When I spoke on this floor in December, advocating working together, I said, ''Congress has a long, and honorable, tradition of putting aside party politics when it comes to national security . . . it is critical that this approach be carried forward to the end, and that Congress reauthorize the USA–PATRIOT Act in a way that Americans can be confident is not the product of politics.''

I am pleased that we followed that tradition and that we put aside our differences and reached agreement. The fact that the White House and the Attorney General backed down from their intransigence and were willing to discuss and compromise is also a welcome change, and hopefully a sign of a more open approach to these issues in the future.

I expect this bill will pass into law. I believe it will make America safer. It is the responsibility of the Congress to ''provide for the Common Defense,'' and I believe we live up to that duty in this bill.

But our job will not end here. We must immediately turn to our oversight responsibilities. For instance, I understand that Senator SPECTER will be continuing his inquiry into the NSA Surveillance Program, and tomorrow the Senate Intelligence Committee will hopefully agree to take up their oversight responsibilities with respect to this program. The Judiciary Committee will also soon be holding a hearing designed to look at the FBI's progress in accepting its newly expanded intelligence missions and assess whether these efforts have been successful and whether they conform with the rule of law.

I look forward to expanding on the spirit of compromise that this bill represents.

I ask unanimous consent the letter to the Attorney General dated January 9, 2006, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 2006.

Hon. ALBERTO GONZALES,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL, Last month the Senate decided to continue debate on the USA-Patriot Act Reauthorization and Improvement Act conference report, and extended the sixteen provisions of the USA–Patriot Act until February 3, 2006. Although I am the original Democratic co-sponsor of the unanimously passed Senate bill, I voted to continue debate. I explained my reasons at length on the floor, but in summary they are simple.

It was clear to me that Senate and House negotiators had come very close to reaching agreement on the Conference Report. I believe this was critical, because only through such a consensus approach can we ensure that the Patriot Act does not continue to be polluted with partisan rancor. This law is extremely important to the safety of America, and its effectiveness depends in large part on ordinary Americans believing it is a product not of partisan politics, but of reasoned debate and compromise. Because I believed consensus was so close at hand, and so important, I voted to provide Congress additional time to resolve the last points of disagreement.

Thus I was disheartened to hear that the Administration has determined not to encourage further discussion on improving and refining the Conference Report—rather, to stand fast, and urge Senators to change their votes. I hope that this is not the case.

With that hope, I ask that you direct your staff to work with both Republicans and Democrats to address the few remaining issues. I am confident that good-faith discussion, honest debate, and careful drafting can reduce, perhaps even eliminate, some of the points of disagreement.

As I understand it, the key remaining points involve: (1) the standard to be applied by courts in determining whether to issue a so-called ''gag order'' in the context of National Security Letters; (2) the time limitations applicable to delayed-notice search warrants; and (3) the legal standard applicable to orders to permit seizure of physical items pursuant to the Foreign Intelligence Surveillance Act (Section 215).

Although I am not an appointed conferee, I have asked my staff to work with representatives from the Department of Justice (including the Federal Bureau of Investigation) and the Office of the Director of National Intelligence. I ask you to facilitate that work.

It is critical that the Congress and the Administration demonstrate our ability to work towards consensus and agreement. I hope you will work with me to that end.

Yours truly,

DIANNE FEINSTEIN
U.S. Senator.

Mr. BYRD. Mr. President, as the Senate considers legislation to reauthorize the PATRIOT Act, I am concerned that these efforts fall far short in protecting the constitutional rights of American citizens.

Last December, a bipartisan group of Senators, including myself, was rightly concerned about the PATRIOT Act conference report's failure to safeguard civil liberties, and the Senate rightly rejected that conference report.

Now we have a bill that purports to address those earlier concerns but in fact fails to do so.

It is unfortunate that valiant efforts by Senators on both sides of the aisle have not produced more meaningful changes to the PATRIOT Act. Now we are faced with an alternative that is weak and unacceptable. This bill does not make the essential adjustments needed to protect the rights of the American people.

While this bill makes some changes, such as clarifying that recipients of national security letters do not have to disclose to the FBI whether they consult an attorney, most of the so-called improvements are anemic. Worse still, section 215 of the PATRIOT Act, which casts the net of surveillance so wide as to ensnare virtually any law-abiding citizen's business or medical records, has remained untouched and unimproved.

This bill pays lip service to judicial review of gag orders placed on recipients of section 215 business records and the national security letters. However, the bill goes on to set a nearly insurmountable barrier to Americans who wish to challenge the gag order or the seizure of their records. The bill requires that the recipient prove that the Government acted in bad faith in obtaining the information. An individual may not challenge a gag order for a year, infringing on that individual's right to seek redress in their own defense.

Under the current ''improvement'', the Government may conduct ''sneak and peek'' searches, without notifying individuals for 30 days. This is more than a three-fold increase in the time period for notification that the Senate bill allowed.

Safety, the American people are told, involves a trade. They are told they must surrender their liberty in order to preserve their safety. This Orwellian compact is an insult to the constitutional liberties guaranteed to American citizens.

Let me be clear. No one in this Chamber discounts the responsibility of government to keep the American people safe in their homes. Keeping the homeland safe obviously must be of the utmost concern for the Nation and this Congress. But such efforts cannot come at the expense of civil liberties. Freedom and safety are not mutually exclusive.

All Americans know the threat that al-Qaida poses to our country. Osama bin Laden and his ilk must be prevented from executing another terrorist attack on our country. But there are many ways to fight al-Qaida.

One of the ways is to protect those same freedoms that the Taliban took away from the people of Afghanistan living under their tyrannical rule. When Americans are free to speak our minds, when we are free from the intrusions of Big Brother, when we are free to exercise—rather than sacrifice—our most prized protections, that is a blow against those who seek to denigrate our country and our Constitution.

If there is any question about the seriousness with which we as a body hold our Nation's security, let us recall last July, when 100 hundred Senators stood together—something virtually unheard of in the current divisive and partisan climate. On July 29, 2005, the Senate came together to protect the Constitution and the basic rights it affords our citizens. Senators from every State of the Union, from every political persuasion, agreed to a version of the PATRIOT Act that would reauthorize the provisions that were set to expire and which provided the Government with the tools to aggressively pursue the war on terror, while protecting the rights of law-abiding citizens. We demonstrated that as a bipartisan body, we could stand strong against the enemy while preserving the privacy of our citizens. Sadly, the strength and zeal with which we once came together have languished, and the hopes of meaningful improvement of the PATRIOT Act have been abandoned.

We must continue to make national security our top priority, as it always has been, but we can do that without sacrificing sacred liberties. I cannot support this watered-down version of an improved PATRIOT Act. The safeguards in this bill are regrettably thin, and we must not claim that such shabby protections of the constitutional rights of our people are the best that we can do.

The PRESIDING OFFICER (Mr. CORNYN). The Democratic leader.

PENSION CONFERENCE

Mr. REID. Thank you very much, Mr. President.

I hope we have the opportunity as soon as we get back to move forward on the pension conference. I hope we can do it even tonight. I don't want to see this pension bill, which is a matter that has been moved to this point on our legislative calendar on a very bipartisan basis, turned into a partisan issue. There has been too much work on a bipartisan basis to advance this bill, and it is very important to the American business community and to American workers. Billions and billions of dollars are at stake.

In fact, once the majority got serious about pension reform, consideration of this bill in the Senate has been a model of bipartisan cooperation. It would not have passed late last year without the Senate's Democratic caucus pushing for its consideration and working with Republicans to create a process by which a bipartisan consensus could be forged and acted upon by the Senate in a reasonable amount of time.

I agree that there have been unnecessary delays with regard to this legislation, and I regret that the full Senate could not act on this legislation until late last year. Consideration in the House and Senate was delayed last year for two reasons.

First of all, the administration pension proposal was narrowly focused on improving the solvency problems at the PBGC and failed to strike the necessary balance between improving pension funding and continuing the attractiveness of defined benefit pension plans to employers. It would have hastened the demise of defined pension plans, which today cover about one in five workers and provide workers greater retirement security because they provide a guaranteed stream of retirement income. The administration proposal generated little support among Republicans, but they weren't willing to buck the White House on policy grounds and instead deferred action on this legislation. That was unfortunate, but that is the way it is.

Consideration of the bill was also delayed by the decision of the House Republican leadership to hold pension reform hostage in order to advance their failed Social Security privatization plan. The House Republican leadership, as late as June of last year, was still delaying even committee consideration of the pension bill and wanted to couple pension reform with the proposal to privatize Social Security. It wasn't fair to hold this important bill hostage in order to advance the politically unpopular Social Security privatization plan. The political message to all those who cared about fixing the pension system was: Get behind our privatization plan for Social Security or you won't get your pension bill.

For example, the San Francisco Chronicle reported on April 30 of last year that ''House Republican leaders vowed Friday to push through Congress an overhaul not just of Social Security but 'retirement security,' grabbing the baton President Bush handed them at his prime.'' In fact, Mr. President, not only prime time but at a news conference he held promising to run with it.

The prime is past.

The savvy legislative tactician who thrives on complex issues, Thomas outlined a much broader legislative front than President Bush has proposed. Thomas suggested changes to private savings and pensions outside of Social Security as well as to the 70-year-old program, saying he would deliver a ''retirement package for aging Americans.''

Chairman Thomas suggested this wide ranging proposal could splinter the Democrats.

The Boston Globe reported months later in June:

Republicans in Congress want to turn aging baby boomer fears of pension defaults heightened by the well-publicized failure of the United Airlines plan to their advantage with plans to link broad-based pension overhaul with elements of President Bush's plan for personal Social Security accounts, a move GOP leaders hope will break a logjam on Capitol Hill.

The strategy reflects a realization by GOP leaders that their Democratic colleagues and even some Republicans are steadfastly opposed to private accounts funded by a portion of Social Security payroll tax.

Republican leaders hope to build on momentum generated by the pension defaults and the shaky state of the federal agency that insures pensions to make a case that retirement security needs an across-the-board makeover and the type of personal security accounts Bush has talked about should be part of the solution.

Consequently, pension legislation languished in the Senate until the end of July. The inability of Senate Republicans on the Committee on Finance to produce a majority in favor of Social Security privatization, pressure by Senate Democrats to move ahead separately on pension reform, and high profile bankruptcies in the airline industry created enough pressure to break this logjam in the Senate.

Again, it was on a bipartisan basis. There was no filibuster, no obstruction, just inaction by the majority.

Despite these delays, Senators GRASSLEY, ENZI, BOXER, and KENNEDY, the chairman and ranking members of the Committees on Finance and HELP, worked through the committee and on the floor to draft and pass a bipartisan pension bill. The Committee on Finance reported its bill at the end of July. The HELP Committee reported its bill at the beginning of December. Committees agreed on a bipartisan basis to a compromise bill that merged the two approaches at the end of September.

The actual legislative work on this was relatively short, certainly, for something as complex as this. The bill passed the full Senate on November 16. At that time, I commended Members on both sides for the diligent work in hammering out a consensus bill, and again questioned why the Senate waited until November to address this important issue. In fact, I worked with the distinguished majority leader in making sure there were not a lot of extraneous amendments, and we could move forward.

There is no reason the Senate cannot move forward on this. We need to agree on a reasonable number of conferees. This is a bill, a very complex bill. What I am asking is there be three people from our HELP Committee who are Democrats, and four from the Committee on Finance, a total of seven. This is a very important bill. The reason we are not going to conference is the majority is not willing to give the Democrats another member—that is, they refuse to go with the ratio which the Republicans get, the best of that deal; they get two extra Senators. Now they say we have to do it with—I assume they want me to do two from HELP and three from the Committee on Finance. That is unfair.

I need, the country needs, a pension reform bill. That can only be done by going to conference. I plead with the majority, let's work this out. There is no reason we should not have a ratio of 8 to 6 that allows me to have three people from the HELP Committee who are experts in this field. They will move quickly. They are willing to work unending hours to resolve this matter.

A report in this morning's Congressional Quarterly suggests that outside interests are pushing for a very small conference, the smaller the better, in order to prevent some Senators who have positions on this most important issue, Senators who have worked on it for many years, from participating in the conference. That is too bad.

This legislation has reached this point and we are here today because of strong bipartisan support for moving forward. It has not been a partisan process thus far and I hope it will not become a partisan process. I expect the conference to be conducted in a bipartisan manner, no matter who gets appointed on what side. I am afraid the Republican majority has decided they want to create a political issue instead of trying to find a way around the impasse. The way around it is easy, 7 to 5 or 8 to 6. I hope we can continue working in a bipartisan way in order to get this bill to conference and enacted into law. It is an important piece of legislation.

It does not seem to me to be asking too much that the HELP Committee, which is so vitally important to the moving of this legislation, have three Democrats on the HELP Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Ms. COLLINS. Mr. President, I ask unanimous consent to speak as in morning business for up to 12 minutes in order to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2311 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

KATRINA EMERGENCY ASSISTANCE

Mr. COCHRAN. Mr. President, I am pleased to be able to express my appreciation to my friend from Maine, Ms. COLLINS, for the passage of the Katrina Emergency Assistance Act of 2005. This important legislation passed the Senate by unanimous consent on Wednesday, February 16, after several months of negotiations. I commend her efforts and the efforts of the Senate Committee on Homeland Security and Governmental Affairs to take the initiative to address the recovery issues still facing the gulf coast.

Senator COLLINS and Senator LIEBERMAN have both visited Mississippi and Louisiana and have seen the devastation and the progress that has been made and the work still left to be done.

Hurricane Katrina was certainly one of the deadliest and costliest natural disasters in United States history.

On Monday, August 29, 2005, Hurricane Katrina made landfall in Louisiana as a category 4 hurricane, with winds up to 145 mph, then turned eastward towards Mississippi, making landfall at 9 a.m., with winds of 125 mph and with a storm surge over 20 feet high. At its peak, the storm stretched 125 miles across the gulf coast

Almost 6 months later, the Congress and numerous Federal departments and agencies are still working to help those affected by the hurricane.

The Katrina Emergency Assistance Act will help people in a variety of important ways.

This legislation provides an additional 13 weeks of Federal Disaster Unemployment Assistance for those who lost their jobs as a result of Hurricane Katrina, extending the duration of benefits from 26 weeks to 39 weeks.

Thousands of residents of the gulf coast lost their jobs as a result of Hurricane Katrina. It is important to continue to provide this assistance while businesses, both large and small, reopen and expand.

The Katrina Emergency Assistance Act authorizes the Federal Government to reimburse local communities and community organizations for purchasing and distributing essential supplies during a disaster situation. Mayors, supervisors, local emergency managers, first responders, and others in

the disaster area should be free to purchase necessities such as food, ice, clothing, toiletries, generators, and other essential items.

These individuals are often the first to respond to a disaster, and they should be assured that their city, county, or organization will be reimbursed for these essential services.

This legislation also requires the Department of Homeland Security to establish new guidelines for inspectors determining the eligibility of individuals for Federal disaster assistance. This provision will help ensure the timely delivery of assistance, while prohibiting conflicts of interest.

This legislation also expresses the sense of the Congress that the Bureau of Immigration and Customs Enforcement should refrain from initiating removal proceedings against international students due to their inability to complete education requirements as a result of a national disaster.

Numerous students from around the world are studying in this country at any given time. These students should not be punished as a result of disaster that interferes with their legitimate educational plans.

Senators COLLINS and LIEBERMAN and the members of the Homeland Security and Governmental Affairs Committee have worked hard to provide assistance and respond to Hurricane Katrina.

The committee is close to completing its exhaustive investigation of the response of the entire Federal Government will soon begin the process of drafting legislation to improve future Federal response efforts.

I look forward to working with them to address the concerns of Mississippians and to improve the process of response and recovery.

I urge my colleagues in the House of Representatives to give every consideration to this important legislation. The Katrina Emergency Assistance Act is the result of months of drafting and negotiating by Senators COLLINS and LIEBERMAN and has the full backing of the United States Senate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENSION REFORM

Mr. FRIST. Mr. President, a few moments ago the minority leader was on the floor following up on a discussion that we had had earlier today. I would like to take a moment to respond to his request regarding the pension reform bill conference committee.

It looks as though we will have to continue to discuss this over the next 24 hours because we have not made very much progress on a bill that is critically important to the safety and security of the American people. It is being postponed for no good reason. That is what it boils down to.

These feeble attempts to explain why we keep putting the bill off are unacceptable at this point. We have to go back to the time line because the facts do speak for themselves.

The Senate passed the pension reform bill on November 16 of last year. So that is—November, December, January, February—almost 3 months ago exactly, or close to it. It was passed by a vote of 97 to 2. Almost all of our colleagues in here, 97 to 2, voted for this bill. The House passed its bill about a month later, on December 15. They passed it overwhelmingly, 294 to 132. Shortly after the House passed the bill, we proposed going to conference with a ratio of 7 to 5. That was back in December. It took the other side of the aisle until yesterday to respond.

It looks as if it is, again, a pattern of delay and obstruction. They have had over 2 months to broach this concern and resolve the dispute within their caucus as to who would serve on this conference. Our side had to make tough choices, as we talked about this morning. My colleague from Mississippi and another colleague who wasn't on the floor spoke to me thereafter and said: Why wasn't I on that tax reconciliation bill conference?

Yesterday, we appointed conferees—two from our side of the aisle and one from their side of the aisle, a total of three. To make these decisions, it takes leadership and calls for leadership just to say this is going to be the number, and let's proceed ahead, and with both the Republican and Democratic caucuses we have to make tough choices and tell our colleagues that not everybody can serve on every conference committee.

It may be that there is a legitimate dispute on the other side of the aisle about who should get to serve. But, again, I question this pattern of obstruction and delay and postponement. This may well be another instance of election year delays to slow down the legislative process and try to attempt to keep us from governing in a responsible way.

If there is a legitimate disagreement about who they should get to serve on their side of the aisle, I have a proposal that might resolve that matter. We can talk about it tomorrow. I would propose appointing six Democratic conferees, which would address their problem, and nine Republican conferees. This should more than accommodate the request of the Democratic leader, while allowing us to maintain equal representation of the two committees, the HELP Committee and the Finance Committee, which have jurisdiction of this bill.

In the meantime, as we discuss and debate this issue, the clock is ticking. We need to appoint conferees right away because, as was explained earlier on the floor today, the first quarter of the fiscal year ends on March 31. Within 2 weeks of that happening, companies have to make contributions to their pension plans. If we don't go ahead and pass comprehensive pension plan reform before then, those contributions may result in bankrupting those companies.

So I close with simply saying that time is of the essence. We cannot delay. We need to act now to once and for all get this done, to get to conference so that we can resolve the issues on this particular bill.

Mr. President, in direct response to a number of issues that have been raised on the bill on the floor right now, the PATRIOT Act, I have a few comments to make. Once again we have a slow-walking of the policymaking process on the floor. We are slow-walking the PATRIOT Act, a bill that we absolutely know will make this country safer and more secure—an improved bill.

Tuesday night, cloture was filed on the motion to proceed to S. 2271, which is a stalling tactic or a filibustering tactic. On the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, which is the formal name of this important bill, we had to file cloture because otherwise this bill will continue to be filibustered and postponed indefinitely. Today, we invoked cloture. I think the vote was 96 to 3; I believe that is correct. That shows there is overwhelming support for this bill. I think that reflects what should be the reality, and that is that this bill is going to pass with overwhelming majority support. Yet we have, in essence, wasted yesterday and today, tomorrow, Monday, and Tuesday, until we are allowed to vote on this bill Wednesday morning following the break.

Once again, the other side seems to be throwing up roadblock after roadblock, demanding unnecessary procedural steps to slow down, to hinder reauthorization of what law enforcement has described as its No. 1 terrorist-fighting tool, the PATRIOT Act.

If the delays in any way would change the outcome or alter the outcome, I could understand it, but that is simply not the case. The outcome of this bill is not in any doubt. The PATRIOT Act will pass with overwhelming bipartisan support. It is just being delayed for delay's sake and, to me, that is simply unacceptable. The American people, unfortunately, pay a price for all of this in two ways.

First of all, the improved PATRIOT Act, which strengthens that ability to remove those burdens between the law enforcement and intelligence act, is one dimension.

Second is, all the pressing issues of securing America's freedom, America's health, improving education, promoting progrowth policy to increase and promote the prosperity of America, all of that gets pushed off to the future.

The original PATRIOT Act passed with overwhelming, near unanimous support in its original version. We know it has been instrumental in the

successful tracking and arrest of key terrorist figures.

Just last week, we learned how, in 2002, a terror plan to hijack a commercial airliner and fly it into the Los Angeles Library Tower was thwarted. Authorities discovered that Khalid Sheik Mohammed, the mastermind of 9/11, had recruited a suicide hijacking cell to bring down the 73-story skyscraper—the tallest building on the West Coast.

Authorities were able to hunt down and capture Khalid Sheik Mohammed, along with his accomplice, Hambali, the leader in al-Qaida, in Southeast Asia, the leader of the terrorist cell, and three of its terrorist members.

It was a tremendous victory in the war on terror, and it saved countless innocent lives. But it also reminded us that our enemies are ruthless. It reminded us that they are determined to kill scores of Americans, hundreds of Americans, right here on American soil. They are determined to exploit any weakness or slip through any potential loophole.

We cannot let our guard down. We must never, ever let our guard down. We have to stay on the offensive. On 9/11, the enemy was able to allude law enforcement, in part, because our agencies weren't able to share key intelligence information. That is why, within 6 weeks of the attacks on America, Congress passed the USA PATRIOT Act with overwhelming bipartisan support. It was near unanimous. The vote was 98 Senators voting in favor.

The PATRIOT Act went to work immediately, tearing down the information wall between agencies, and it allowed the intelligence community and law enforcement to work more closely in pursuit of terrorists and their activities. Since then, it has been highly effective in tracking down terrorists and making America safer. Because of the PATRIOT Act, the United States has charged over 400 suspected terrorists. More than half of them have already been convicted. Law enforcement has broken up terrorist cells all across the country, from New York to California, Virginia, down to Florida.

In San Diego, officials were able to use the PATRIOT Act to investigate and prosecute several suspects in an al-Qaida drug-for-weapons plot. The investigation led to several guilty pleas. The PATRIOT Act also allowed prosecutors and investigators to crack the Virginia jihad case involving 11 men who had trained for jihad in Northern Virginia in Pakistan and in Afghanistan. We need to continue to provide these tools to track and foil terrorist plots before harm can be done to innocent Americans.

The PATRIOT Act has been debated thoroughly. It has been negotiated. It has been drafted, and it has been redrafted again. It is time to bring this process to a close. The bill before us is the result of sincere, good-faith efforts and builds on the work that was accomplished last year to renew the PATRIOT Act. It strengthens our civil liberties protections as well as the core antiterrorist safeguards that have been so critical in fighting the war on terror.

In 2006, the USA PATRIOT Act, as written, once passed, will help us to combat terrorist financing and money laundering, protect our mass transportation systems and railways from attacks such as the one on the London subway last summer, and to secure our seaports. It will help us fight methamphetamine drug abuse, America's No. 1 drug problem today, by restricting access to the ingredients used to make that poisonous drug, methamphetamines.

So the question before us now is pretty straightforward. It is simple. Why delay all of these provisions any longer? Why wait to move forward to make America safer? Why wait to give law enforcement the same tools they already use against white-collar criminals and drug offenders? It doesn't make sense to postpone, to delay, to wait.

Those who are delaying the bill claim they are taking a stand for stronger civil liberty protections. Yet they admit that the renewal of the PATRIOT Act is a vast improvement over current law. Again, why wait to enact the dozens of civil liberties protections in this bill that they have supported for so long. We have a duty and responsibility to protect our fellow Americans. Indeed, it is our highest duty as Senators.

I urge my colleagues to move forward to renew the PATRIOT Act. The time to act is now. It is the only, the best, and the right thing to do.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEART FOR WOMEN ACT

Ms. MURKOWSKI. Mr. President, I wish to take a few moments to speak very briefly about heart disease. Many people might not know but February is American Heart Month, and heart disease, as we certainly know, is the Nation's leading cause of death.

Many women believe heart disease is a man's disease. Unfortunately, there are many women in this country who do not view this as a serious health threat. Yet every year since 1984, cardiovascular disease has claimed the lives of more women than men. In fact, cardiovascular disease death rates have declined in men since 1979, which is great news, but the death rate for women during that same period has actually increased. The numbers are disturbing.

Cardiovascular diseases claim the lives of more than 480,000 women per year. That is nearly a death a minute among females and nearly 12 times as many lives as claimed by breast cancer. One in four females has some form of cardiovascular disease. Again, these are statistics many of us would find alarming, certainly, but also find that it is new information, something we didn't know.

I am pleased to join with my colleague from Michigan, Senator STABENOW, to introduce important legislation we have entitled the HEART For Women Act, or Heart Disease Education, Analysis, and Research, and Treatment For Women Act. This important bill improves the prevention, diagnosis, and treatment of heart disease and stroke in women.

In Alaska, we have some very troubling statistics as they relate to heart disease. In Alaska, cardiovascular diseases are the leading cause of death, totaling nearly 800 deaths per year. Women in Alaska have higher death rates from stroke than do women nationally. Mortality amongst Native Alaskan women is dramatically on the rise, whereas it is appearing to decline among Caucasian women in the lower 48. So these statistics, again, should cause us concern.

Despite being the No. 1 killer, many women and their health care providers do not know the biggest health care threat to women is heart disease. In fact, a recent survey found that 45 percent of women still do not know heart disease is the No. 1 killer of women.

Perhaps even more troubling is the lack of awareness amongst our health care providers. According to the American Heart Association figures, less than one in five physicians recognize more women suffer from heart disease than men. Only 8 percent of primary care physicians—and even more astounding—only 17 percent of cardiologists recognize that more women die of heart disease than men. Additionally, studies show women are less likely to receive aggressive treatment because heart disease often manifests itself differently in women than in men.

This is why this HEART Act is so important. Our bill takes a three-pronged approach to reducing heart disease death rates for women through education, research, and screening.

First, the bill would authorize the Department of Health and Human Services to educate health care professionals and older women about the unique aspects of care and prevention, diagnosis, and treatment of women with heart disease and stroke.

Second, the bill would require disclosure of gender-specific health information that is already being reported to the Federal Government. We already have many agencies that are collecting the information based on gender, but they don't disseminate or analyze the gender differences. This bill would release that information so it could be studied and important health trends in women could be detected.

Lastly, the bill would authorize the expansion of the Centers for Disease Control and Prevention's WISEWOMAN program. WISEWOMAN is the acronym for the Well-Integrated Screening and Evaluation For Women Across the Nation program. The WISEWOMAN program provides free heart disease and stroke screening to low-income, uninsured women. But the program currently is limited to 14 States. In the State of Alaska, we are fortunate to have two WISEWOMAN program sites, and these programs screen for high blood pressure, cholesterol, and glucose in Native Alaskan women, and they have been providing invaluable counseling on diet and exercise. One program in Alaska has successfully screened 1,437 Native Alaskan women and has provided them with culturally appropriate intervention programs that have truly produced lifesaving results.

Heart disease, stroke, and other cardiovascular diseases cost Americans more than any other disease—an estimated $403 billion in 2006, including more than $250 billion in direct medical costs. We as a Nation can control these costs. Prevention through early detection is the most cost-effective way to combat the disease.

A few days ago we celebrated Valentine's Day, and we saw images of hearts then and we are still seeing them around now. We shouldn't forget that the heart is more than a symbol—it is a vital organ that can't be taken for granted. Coronary disease can be treated effectively, and sometimes even prevented. It does not have to be the No. 1 cause of death in women, and that is why I encourage my colleagues to support the HEART for Women Act.

COMMONSENSE GUN SAFETY LAWS SAVE LIVES

Mr. LEVIN. Mr. President, an analysis by the Violence Policy Center, VPC, of the most recent data available from the Centers for Disease Control and Prevention, CDC, revealed that the national per capita death rate from guns was 10.36 people per 100,000 in 2003. In addition, 10 States had per capita gun death rates of more than 15 gun deaths per 100,000 people. Not coincidentally, the States with the highest per capita gun death rates also have some of the most lax gun safety laws in the country. This is further evidence that commonsense gun safety laws do save lives.

Each year the Brady Campaign to Prevent Gun Violence produces a ''Gun Violence Report Card'' in which it assigns individual States a grade on their gun safety laws of A through F. In its analysis, the Brady campaign evaluates State gun safety laws on factors such as: whether it is illegal for a child to possess a gun without supervision; whether it is illegal to sell a gun to a child; whether gun owners are held responsible for leaving loaded guns easily accessible to children; whether guns are required to have child-safety locks, loaded-chamber indicators and other childproof designs; whether cities and counties have authority to enact local gun safety laws; whether background checks are required at gun shows and between private parties; and, whether it is legal to carry concealed handguns in public.

When the analysis of the CDC gun death data for 2003 is compared with the Brady campaign's report card for the same year, we find that the States with the lowest rates of gun deaths also received the highest grades from the Brady campaign. In fact, four of the five States with the lowest gun death rates received an ''A-,'' the highest grade awarded by the Brady campaign that year, and the fifth received a ''B-.'' These five States had an average rate of 3.81 gun deaths per 100,000 people, less than half of the national average. Conversely, four of the five States with the highest rates of gun deaths received an ''F,'' while the fifth received a ''D-.'' These five States had an average rate of 17.9 gun deaths per 100,000 people.

According to the Brady campaign, none of the top 15 States with the highest rates of gun deaths have laws requiring background checks on guns purchased at gun shows or from private sellers. Under current Federal law, when an individual buys a firearm from a licensed dealer, there are requirements for a background check to ensure that the purchaser is not prohibited by law from purchasing or possessing a firearm. However, this is not the case for all gun purchases. For example, when an individual wants to buy a firearm from a private citizen who is not a licensed gun dealer, there is no Federal requirement that the seller ensure that the purchaser is not in a prohibited category. This creates a loophole in the Federal law, providing prohibited purchasers, including convicted criminals, with potential easy access to dangerous firearms. Fortunately, some States, including the five with the lowest rates of gun deaths, have enacted laws to help close this loophole.

Congress should work to enact national gun safety standards, including mandatory background checks on all gun sales, to help reduce the high rate of gun deaths across the country. The States who have already enacted commonsense gun safety legislation have shown that their laws make a difference and we should follow their lead.

RELIGIOUS FREEDOM

Mr. SANTORUM. Mr. President, Thomas Jefferson called religious freedom the ''first freedom.'' As founder and leader over the last 3 years of the Congressional Working Group on Religious Freedom, I wanted to take this opportunity to pay tribute to this pivotal liberty. Last month, President Bush also recognized this important freedom by declaring ''Religious Freedom Day,'' observed on January 16.

Americans are among the most religious peoples on Earth and are of many faith traditions. Nearly 80 percent of Americans state they pray regularly. Within a few blocks of this Capitol, there are churches, meeting houses, synagogues, mosques, temples, and house of worship of every variety.

The free exercise of religion is a hallmark of our Nation. It is the reason many of our ancestors came here. It is the reason we are able to live peacefully together as a religiously diverse people. Cherished by the American people as the most precious of those rights given by God, religious freedom has been given the pride of place in our Constitution, in the first clause of the first amendment of the Bill of Rights.

Freedom of thought, conscience, and religious belief, as Jefferson and the American Founders recognized, is the prerequisite for the exercise of other basic human rights. Freedom of speech, press, and assembly depend on a free conscience. No basic freedom can be secure where religious freedom is denied.

But these rights do not just belong to Americans. They are universal; they belong to every person in this world. No one, from the worst dictator to the most powerful government, can take away the right for a person to believe as he or she wishes. However, the expression of this belief is too often repressed through the imposition of persecution and death.

Since the Nazi Holocaust against the Jewish people, the principle of religious freedom has gained recognition in foreign policy. The right to religious freedom found worldwide acceptance in the 1948 Universal Declaration of Human Rights, to which many nations have agreed. ''Everyone,'' the declaration asserts, ''has the right to freedom of thought, conscience and religion.'' As the declaration makes explicit, ''this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.''

The declaration's article 18 thus provides for the acceptance of religious pluralism; the freedom to convert to another faith; the right to express unorthodox beliefs in one's individual capacity; the right, not only to worship in private or behind the walls of a building but to express one's faith in society. These are powerful concepts that challenge many societies, including at times our own.

For example, I have introduced the Workplace Religious Freedom Act, a

bill which would restore a balanced approach to religious freedom in the workplace. It would clarify current law, which requires employers to accommodate the religious beliefs of their employees, unless doing so would cause significant difficulty or financial hardship for the employer. While most employers recognize the value of respecting religion in the workplace, sometimes employees are forced to choose between dedication to the principles of their faith and losing their job because their employers refuse to reasonably accommodate certain needs. It is supported by a broad spectrum of groups, liberal and conservative, who share this Nation's commitment to the freedom of conscience.

The International Religious Freedom Act of 1998, which I supported, institutionalized religious freedom as a guiding doctrine in America's foreign relations. The act established within the State Department an office, headed by an Ambassador-at-Large, to monitor and report annually on the status of religious freedom in every country; and it created the U.S. Commission on International Religious Freedom as an independent Government agency to study and propose new policies to advance religious freedom abroad.

Because of this legislation, regular reports are being issued by the State Department on the status of religious freedom in every country. Citizens now have access to information not easily available previously. The U.S. Government is now designating countries as being of particular concern solely because of their records on religious freedom. While more actions can be taken, our Government is making this freedom a priority.

The founder of Pennsylvania, William Penn, and many others fled to this land seeking religious freedom. Centuries later, the United States remains a beacon for the religiously repressed around the world. Our Congressional Working Group on Religious Freedom includes persons from diverse countries and faith backgrounds who have found religious freedom in America and who now dedicate their lives to speaking out for the persecuted around the world.

A regular participant in our Working Group is Ali Alyami. Dr. Alyami is a Muslim from Saudi Arabia, but he is not a follower of Wahhabism, the extremist, state-sanctioned brand of Islam in Saudi Arabia, and so he faces marginalization and repression in his homeland.

Another is Bob Fu, an evangelical Christian leader who was arrested in his native China for praying in an unauthorized house-church before finding refuge in the United States and moving to Philadelphia.

Eden Naby, an Assyrian Christian, spoke at our ''Christmas under Siege'' meeting last month about the accelerating attrition rate of religious minorities fleeing ethnic cleansing and extremism in Iraq,

Seung-Woo Kahng attested to the cruelties suffered by an underground church-leader in North Korea.

Michael Muenir, a Copt originally from Egypt, reported to our group about the failure of Egyptian justice when Copts are murdered by Islamic fanatics, discrimination against the Copts in the upper echelons of government and military, and the obstacles to getting government permission to build or even repair churches in Egypt.

Bat Ye'or, a Jewish author originally from Egypt, spoke of the rising tide of anti-Semitism throughout Europe.

These and many more like them are grateful to have the freedom in the United States to speak out about the need for religious freedom in many countries throughout the world.

When we look at the overall state of religious freedom in the world, state-sponsored religious persecution of the harshest severity—torture, imprisonment, and even death—occurs today under three types of regimes: the remnant communist regimes; repressive Islamist states; and nationalist authoritarian states. Many of the countries represented in these categories are those that have been officially designated by the U.S. State Department as ''countries of particular concern,'' or ''CPCs,'' for their ''egregious, systematic, and continuing'' violations of religious freedom.

The first type of regime is that of the remnant communist states, such as China, North Korea, and Vietnam. For example:

North Korea systematically crushes public expressions of religion and puts in harsh concentration camps those accused of being religious, along with up to three generations of their family members.

China seeks to control all religion and punishes religious leaders who worship without authorization with fines, ''reeducation'' camp, and other forms of incarceration. It also harshly treats Falun Gong practitioners, who have reported to us about torture and murder at the hands of authorities.

Vietnam beats and tortures its Hmong and tribal Christians until they recant their faith.

A second main type of regime fostering state-sponsored persecution is that of repressive Islamic states. For example:

In recent years, the Sudanese Government prosecuted a genocidal war in its south in which over 2 million Christians and followers of traditional African religions were killed and thousands enslaved for resisting the forcible imposition of Islamic law. Khartoum is now employing the genocidal tactics honed in the religious conflict with the south in a race-based conflict in its western Darfur region.

Iran's fanatical regime has tortured and killed many thousands of its own nationals for religious reasons. One Iranian political dissident, a Muslim professor named Hashem Aghajari, aptly protested at his July 2004 blasphemy trial that he was being punished for ''the sin of thinking.''

Saudi Arabia continues to indoctrinate its students in an ideology of religious hatred and exports such propaganda to other Muslims communities throughout the world, including here in the United States; Saudi researchers themselves found that the state's curriculum ''misguides the pupils into believing that in order to safeguard their own religion, they must violently repress and even physically eliminate the 'other.' ''

The third type of regime where religious persecution is prevalent is that of nationalist authoritarian states, such as Burma and Eritrea. For example:

In Burma, the government subjects all publications, including religious publications, to control and censorship. The government generally prohibits outdoor meetings of more than five persons, including religious meetings.

In Eritrea there are reports that police have tortured those detained for their religious beliefs, including using bondage, heat exposure, and beatings. Also, some detainees were required to sign statements repudiating their faith or agreeing not to practice it as a condition for release.

Lastly, we have unfortunately seen a global trend of growing anti-Semitism which has also been brought before our working group. It has been seen in Iran where the President has notoriously denied the Holocaust and threatened the existence of Israel, in the streets of Russia, in the capitals of Europe, and even on the campuses of American universities. The Protocols of the Elders of Zion, an abominable anti-Semitic forgery of a Russian czar, is resurfacing at Iranian government-sponsored book fairs, on Egyptian-controlled television broadcasts and in Saudi-published textbooks. This precise work was used by Hitler to indoctrinate Nazi youths. We must take this threat seriously.

Natan Sharansky, himself once a Soviet religious prisoner, a ''Jewish refusenik,'' states that a test of a free society is whether ''people have a right to express their views without fear of arrest, imprisonment, or physical harm.'' None of the CPCs cited above are free societies. It is no coincidence that regimes that pose the gravest threats to our national security—Iran and North Korea today—are also ones that tyrannically crush freedom of belief. The protection and promotion of religious freedom is as fundamental to our national interest, as it is to our ideals.

When we promote religious freedom for these countries and others, when we as members of the Senate speak publicly on religious freedom, when we raise the issue on our trips abroad and in our meetings with foreign officials, when we make sure that members of

the administration and embassy officials around the world raise these values regularly with foreign governments, when we speak on behalf of persecuted dissidents, and when we act consistently in our own country, we will not only be working to ensure every person can worship as they see fit. We will also be ensuring a safer, peaceful, more secure world where the rights of all—the freedoms of all—are respected and celebrated.

RENT RELIEF TO FEDERAL JUDICIARY

Mr. CORNYN. Mr. President, I rise to discuss S. 2292, a bill to provide rent relief to the Federal judiciary. Our Federal judges and court administrators have expressed serious concerns about the rental charges assessed by the General Services Administration, GSA, in courthouses and other space occupied by the courts around the country. If enacted, this legislation would require the administrator of general services to charge the judicial branch no more rent than that which represents the actual costs of operating and maintaining its facilities. Specifically, it prohibits the General Services Administration from including amounts for capital costs, real estate taxes, except for those taxes actually paid by the administrator of general services to lessors, or administrative fees in rental charges.

The current budgetary problems caused by the judiciary's rental payments must be addressed. In fiscal terms, since 1986, the Federal Courts' rental payments to GSA have increased from $133 million to $912 million. The percentage of the judiciary's operating budget devoted to rent payments has escalated sharply from 15.7 percent in 1986 to about 22 percent in 2004. During this same time, the share of the Federal budget provided to the judiciary has dwindled as Congress has sought to tackle our Nation's increasing budget deficit. Even as overall resources available to the judiciary dwindle, analysts project that rental payments will reach approximately $1.2 billion by 2009, which will be an estimated 25 percent of the judiciary's annual operating budget.

I believe that the courts are doing everything they possibly can to contain their costs without adversely affecting the administration of justice. The Federal judiciary has imposed a 24-month moratorium on the construction of any new courthouses and has stopped planning for many projects. If rent relief is not granted to the judiciary, more personnel cuts will be required in the near future, including the loss of another 4,000 jobs over the next 4 years.

In my view, this constitutes a near crisis in the Federal judiciary. Space and appropriate personnel play a significant role in our judicial system. The ready availability of appropriate courtrooms, jury deliberation and assembly rooms, and workspace for support staff all facilitate the administration of justice. Appropriate space for drug testing and monitoring of persons under supervision by Federal probation officers is of the utmost importance. It is critical that the courts have all the tools they need to carry out their mission. Providing this relief to the judiciary will allow them to improve the administration of justice for all Americans.

Additionally, serious building-related security problems in existing courthouses are also a key consideration. Courthouses should have secure passage for detainees to be transported, separating public passageways from these individuals. Unfortunately, this is not the case in many courthouses, including several courthouses in my home state of Texas. As an example, I recently wrote to Attorney General Gonzales to urge him to ensure that funding is granted to fix security concerns identified at the Midland Federal Courthouse as soon as possible. Affording the judiciary rent relief so they can devote more money to courthouse security is a good first step.

Finally, I think it is important to point out that this bill addresses the unequal treatment generally afforded the lower Federal courts. Many of the buildings used by other agencies and branches of the Federal Government are exempt from rent. For example, the Department of Defense pays no rent to GSA on the Pentagon or on military bases. The Treasury Department, which once housed GSA, pays no rent on the main Treasury building or on its Mints. The Supreme Court—unlike the lower Federal courts—pays no rent. Likewise, the Federal Reserve Board, the FDIC, and many other quasi-federal agencies do not pay rent to GSA. There is no rent paid on Federal prisons, embassies, NIH facilities, nuclear facilities, VA hospitals, EPA labs, or national parks and national forest facilities. Congress does not pay rent on the Capitol Building we're deliberating in today. Nor does Congress pay rent on the Senate or House office buildings or surrounding structures. Congress is charged rent by GSA only for a small amount of space for congressional State and district offices. The Federal judiciary—specifically, the lower Federal courts—lack that same advantage. This bill takes a step towards granting the judiciary equal treatment.

It is important that all who enter our Nation's courts are ensured fair and equitable treatment. This bill is a critical component in achieving this goal. I will work with Senator SPECTER and the other co-sponsors to get this bill moving through the judiciary committee as soon as possible.

PROVIDING RELIEF FOR THE FEDERAL JUDICIARY FROM EXCESSIVE RENT CHARGES

Mr. LEAHY. Mr. President, yesterday Chairman SPECTER introduced a bill I cosponsored to provide relief for the Federal judiciary from excessive rent charges assessed by the General Services Administration, GSA, for the use of courthouses and other spaces occupied by the courts across the Nation. Since 1986, the Federal courts' rental payments to GSA have increased dramatically, with the percentage of the judiciary's operating budget devoted to rent payments escalating from 15.7 percent in 1986 to approximately 22 percent in 2004. If no changes are made, this percentage is expected to continue to rise sharply. This legislation brings these rent charges under control by capping the rent charges at GSA's actual costs of operating and maintaining accommodations provided to the judicial branch, by specifying that certain capital costs, taxes, and administrative fees shall not be included in GSA's rent charges, and by establishing a means for repayment over time for the future costs of repair and alteration projects performed by GSA.

As the ranking member of the Senate Judiciary Committee, I have been concerned about the adverse effect of these rent payments on the administration of justice. On May 13, 2005, a bipartisan group of 11 members of the Judiciary Committee, including Chairman SPECTER and myself, sent a letter to GSA asking it to exercise its authority to exempt the judicial branch from all rental payments except those required to operate and maintain Federal court buildings and related costs. GSA's response has not been adequate. As set forth in that letter, the excessive rent paid by the judiciary will exacerbate severe personnel shortages by forcing more cuts and could also have impacts on courthouse security. The rent relief provided in this bill will help ensure that the judiciary continues to have the tools it needs to carry out its unique and vital function.

KATRINA ON THE GROUND

Mr. KERRY. Mr. President, on August 29, 2005, Hurricane Katrina tore through the gulf coast States leaving in its wake death and destruction that none of us will soon forget. In the immediate aftermath, graphic images of people struggling to escape the flooding in New Orleans and digging through the rubble of their homes in Mississippi and Alabama filled our television sets and newspapers. People were outraged at the Government's response. They volunteered their time to aid in rescues. They donated their money to help the victims. But many soon moved on.

The problems faced by the residents of the gulf coast, however, have not gone away. Rebuilding is underway, but it will take years. We cannot forget the work that still needs to be done or the people who are still struggling.

That is why I am so impressed with a new volunteer initiative called Katrina on the Ground. Katrina on the Ground, or KOTG, will bring together students from across the country to help rebuild

the hurricane-ravaged cities of Mobile, AL, Biloxi, MS, and New Orleans, LA, during their spring break vacations. Each student will provide at least one week of assistance in the region after receiving a day of training in Selma, AL. This is a stunning commitment of time and energy given that many students spend their spring breaks at the beach or on vacation.

Choosing the 21st Century Youth Leadership camp in Selma, AL, as a training site was not a coincidence. Selma, as we all know, is where Dr. Martin Luther King, Jr. led his last great march in 1965—the march that led to the Voting Rights Act of 1965. KOTG's founders hope to build on the spirit of the civil rights movement, invigorating a new generation of leaders to effect change. As Kevin Powell, one of the founders points out, ''There has been nothing like this since the student-led anti-apartheid movement of the 1980s or . . . the student sit-ins and freedom rides of the 1960s.'' A student army, 500 to 700 strong, sends a powerful message to residents of the gulf coast and the rest of the Nation that we care and we have not forgotten.

I commend these students, KOTG's partner organizations, and its founders KOTG for their creativity, their compassion, and their commitment to public service. KOTG gives us hope for the future and demonstrates that the leaders of tomorrow are already here, ready, and willing to face the toughest challenges of our time.

COMMITTEE TESTIMONY OF LYNETTE MUND

Mr. DORGAN. Earlier this month, Lynette Mund, a teacher and coach from West Fargo, ND, testified before the Senate Commerce Committee about the importance of women's athletics.

Lynette is a great athlete in her own right. She was a three-time national champion in basketball. Her home State of North Dakota has always been proud of her and is lucky to have her contributions at West Fargo High School.

Her excellent statement laid out the struggles of providing the opportunity for young women to participate in sports. I ask unanimous consent that her statement be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF LYNETTE MUND—PROMOTING WOMEN IN SPORTS, FEBRUARY 1, 2006

Good morning, Chairman STEVENS, Senator INOUYE and Members of the Committee. On behalf of the state of North Dakota, I would like to thank the Commerce Committee for hearing my testimony.

My name is Lynette Mund and I am a teacher and head girls basketball coach at West Fargo High School in West Fargo, North Dakota. I am here today to testify to the importance of women's athletics and the struggles of providing athletic opportunities to young girls in rural communities. I will also discuss what I am doing to encourage more young girls to participate in sports in North Dakota.

Girls and women being involved in athletics has been a long discussed issue. Many questions have been asked, such as ''Can girls' bodies handle it?'' ''Are girls mentally tough enough?'' ''Does it really make a difference in a girl's life?'' I am here as evidence that the answers to the previous questions are all ''Yes''. The fact that I am in Washington, DC, testifying in front of the U.S. Senate Commerce Committee shows what a difference sports can make in a girl's life. Twenty years ago, I was a 12-year-old girl who was milking cows on my parent's dairy farm in rural North Dakota, and now I am here in our nation's capital with some of the most influential people in our country listening to what I have to say. I have always loved sports, but I had no idea where they would take me and the confidence they would give me.

At age 13, I was a skinny 8th grader who was stepping out on the basketball court to start my first varsity game, and by age 23, I was a 3-time NCAA Division II National Champion and a college graduate from North Dakota State University who had the confidence to leave North Dakota and move to the ''big city'' of St. Louis, MO. However, while I was in St. Louis, I always had a desire to move back to North Dakota and give back part of what I had been given. That opportunity presented itself when I was offered the head girls basketball coaching position at West Fargo High School. Being back in North Dakota not only afforded me the chance to work with female athletes in West Fargo, but I was also able to continue working with young girls back near my hometown of Milnor, ND, which has a population of 700 people.

As I stated earlier, I grew up on a dairy farm. I was a relatively naïve young lady without much self-confidence. I had always dreamed of going to college, but I knew it would not be affordable without a college scholarship. I remember standing out in the milk barn and hearing on the radio that a local basketball star, Pat Smykowski, had gotten a college scholarship to play basketball, and right then and there I knew that was what I wanted to do. Thankfully, due to the efforts of many great women before me, the chance to participate in college athletics was available; something my mother and many women from her generation never had an opportunity to do. My mom used to talk about wanting to play sports but not having the chance to compete. I sometimes sit and wonder how different my life would be without athletics. I wonder if I would have had the money to attend college, if I would have had the confidence to move away from my home state, and if I would have had the nerve to fly to Washington, DC, all by myself and speak in front of U.S. Senators. However, all of these things happened because I participated in athletics. As a result, I want to inform and inspire other young girls from rural North Dakota.

One of the biggest challenges in rural North Dakota is that there are very few opportunities for athletes to improve their skills. That is why over the last 12 years, I have offered over 40 basketball camps in North Dakota and Minnesota. I am proud to have given over 800 young women the opportunity to participate in their first basketball camp. For many of these young girls, my camps are the only exposure they will have to an athletic camp for the whole year. Over the years, I have had the chance to see some of my former campers continue their careers in high school athletics, some of which I have actually had to coach against! However, it was always worth it to see how far these young ladies have come and the confidence they now carry. At the time they attended camp, you should have seen their eyes when I told them they could have the chance to play in high school or college someday. Some of these girls did not even realize this was an option for them. By exposing these young girls to athletics at an early age, it allows them to see that sports is an option. This is relevant to the future of women's athletics because equal access to sports in college only works if girls have the opportunity to get involved in athletics at an early age.

Getting these young ladies involved is even more evident when I look at athletic participation numbers for girls in North Dakota. According to figures from the 2004–2005 North Dakota High School Activities Association, females made up 49 percent of the student population in North Dakota. However, only 40 percent of the student-athletes were females. It is one of my goals to bring this number closer to 49 percent. This is important to me because I have first hand knowledge of how athletics can have a positive effect on a young woman.

I have been very fortunate to coach camps along with a high school basketball team. This year, I have 3 seniors at West Fargo who will be receiving athletic scholarships and playing college basketball next fall. I have had the chance to watch these young ladies grow and mature since their freshman year. They exude a confidence that was not there 3 years ago. They know they have the ability to do whatever they want in life and the self-assurance they will be successful.

By providing my basketball camps and coaching high school basketball, I hope that other young girls from my home state realize that there are many opportunities to participate in athletics, and even a young girl from a town of less than 1000 people can be a National Champion, a college graduate, and a successful, confident professional.

Thank you very much for your time.

ADDITIONAL STATEMENTS

IN MEMORY OF FEMINIST PIONEER BETTY FRIEDAN

• Mrs. BOXER. Mr. President, I rise to pay tribute to the life of one of the late 20th century's most influential feminists, Betty Friedan. Friedan died on February 4, 2006, at her home in Washington, DC, at the age of 85.

At her Smith College 15-year reunion, she famously prepared a survey of her classmates, the results of which eventually became her landmark book, ''The Feminine Mystique.'' With this book, published in 1963, Friedan helped ignite the second wave of the feminist movement, and the book is now regarded as one of the most influential American books of the 20th century.

Friedan was the cofounder of three groundbreaking women's organizations which have greatly improved women's economic, personal, and political lives. In 1966, Friedan cofounded the National Organization for Women, NOW, and served as its first president until 1970. She also helped found what is now NARAL Pro-Choice America and the National Women's Political Caucus.

Friedan fought tirelessly for equal pay, safe and legal abortion, maternity leave, childcare for working parents, and an end to sex discrimination.

Friedan's survivors include her sons, Daniel Friedan and Jonathan Friedan; daughter Emily Friedan; nine grandchildren; a sister, Amy Adams; and a brother, Harry Goldstein. Her former husband Carl Friedan died in December 2005.

Like other strong, outspoken women, Betty Friedan was widely and loudly criticized in the 1960s and 1970s for being too strong, vocal, and unrealistic. Betty Friedan endured that criticism to make her mark in the world.

Women have made tremendous strides since ''The Feminist Mystique'' was first published. We have a stronger voice in our communities and in our workplaces. I am proud to serve as 1 of 14 women in the Senate, and we now have 68 women in the House of Representatives. We have made progress, but much more needs to be done.

As we remember the life and accomplishments of Betty Friedan, let us rededicate ourselves to achieving full equality for women in America.●

HONORING ROY PALMER VARNER

● 1Mr. ISAKSON. Mr. President, today I wish to remember the life of Roy Palmer Varner of Marietta, GA. Like many of his generation, Roy Varner bore witness to some of the most important moments and changes in our Nation's history. But Roy Varner wasn't merely a passing observer of the events of the 20th Century, he was an active and influential participant in them.

A native son of Georgia, Roy Varner possessed a deep sense of duty and service, which was tested on December 7, 1941. Without hesitation, he joined the effort to defend freedom by enlisting in the Army and soon found himself in the 101st Airborne Division. On June 6, 1944, Mr. Varner joined thousands of his brothers in parachuting ahead of the Allied invasion at Normandy. A few months later, the effort to liberate Europe turned toward Holland, and when his name was called again, Mr. Varner did not hesitate to reenter the fray as a part of Operation Market Garden. For men like Roy Varner, there was no question of the righteousness of their task. They knew it would be a difficult journey, and that not all of them would live to see it through. But they were loyal, patriotic men of faith who understood the weight of their responsibility and never questioned their belief that their mission would be successful. And that, is why we call them the Greatest Generation.

After the war, Mr. Varner returned to his home in Cobb County, GA, and married Mary Munro, who would stand loyally by his side for the next 56 years. In the early 1950s, Mr. Varner began what would become a long and successful career as a commercial real estate developer. Although his work took him all over the Southeast, the mark that he left on the early development of Cobb County was his most lasting. As a real estate businessman in Atlanta for over 30 years, I knew him personally and saw the product of his vision and hard work take shape in the projects he developed. Mr. Varner's influence on the community was also evident in his work as the chairman of the industrial committee for the Cobb County Chamber of Commerce and his service as a member of the Marietta Rotary Club.

As a businessman, Roy Varner personified the values of honesty and hard work, but he was also a man of intellect and faith, and, above all, a family man. The son of a minister, Mr. Varner embarked on his life with a certain zeal that only comes with a belief in God, and he actively served his church community as a lay leader and fundraiser. A firm believer in the value of education, Mr. Varner attended Woodrow Wilson Law School after being honorably discharged from the Army and remained a scholar of history, art, literature, and world events for the rest of his life. He lived by his ideals and passed his principles on to his four children and ten grandchildren, who have continued his work and his legacy and who are the living embodiment of the values and beliefs that shaped his life and influenced the lives of so many others.

On February 8, 2006, Mary Varner lost her husband and the world lost a truly great man. He deeply influenced his family and community, left an indelible mark on the landscape of Cobb County and, as a member of the Greatest Generation, helped influence the course of history. He fought for our country and he helped to build our Nation. But, as is often the case with men like Roy Varner, his contributions cannot easily be measured. He will be remembered by many different people for many different reasons, but Roy Varner should be remembered by this body as nothing less than an American hero.●

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1989. An act to designate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, as the ''Holly A. Charette Post Office''.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 79. Concurrent resolution expressing the sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within the Palestinian Authority maintains a position calling for the destruction of Israel.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 300. Concurrent resolution paying tribute to Shirley Horn in recognition of her many achievements and contributions to the world of jazz and American culture.

H. Con. Res. 341. Concurrent resolution condemning the Government of Iran for violating its international nuclear nonproliferation obligations and expressing support for efforts to report Iran to the United Nations Security Council.

H. Con. Res. 345. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 300. A resolution expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District. A bill to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds. A concurrent resolution paying tribute to Shirley Horn in recognition of her many achievements and contributions to the world of jazz and American culture; to the Committee on the Judiciary.

H. Con. Res. 341. Concurrent resolution condemning the Government of Iran for violating its international nuclear nonproliferation obligations and expressing support for efforts to report Iran to the United Nations Security Council; to the Committee on Foreign Relations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2320. A bill to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Preston M. Geren, of Texas, to be Under Secretary of the Army.

*James I. Finley, of Minnesota, to be Deputy Under Secretary of Defense for Acquisition and Technology.

*Thomas P. D'Agostino, of Maryland, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Air Force nomination of Maj. Gen. Ronald F. Sams to be Lieutenant General.

Air Force nominations beginning with Brigadier General David L. Frostman and ending with Colonel Paul M. Van Sickle, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Air Force nomination of Brig. Gen. Glenn F. Spears to be Major General.

Air Force nomination of Brig. Gen. Dennis G. Lucas to be Major General.

Air Force nomination of Maj. Gen. Jack L. Rives to be Judge Advocate General of the United States Air Force.

Air Force nomination of Col. Steven J. Lepper to be BrigadierGeneral.

Army nominations beginning with Col. Malinda E. Dunn and ending with Col. Clyde J. Tate III, which nominations were received by the Senate and appeared in the Congressional Record on July 19, 2005.

Army nomination of Brig. Gen. Richard G. Maxon to be Major General.

Army nominations beginning with Brigadier General Michael D. Barbero and ending with Brigadier General Curtis M. Scaparrotti, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nomination of Lt. Gen. Thomas F. Metz to be Lieutenant General.

Army nomination of Maj. Gen. David P. Valcourt to be Lieutenant General.

Army nomination of Lt. Gen. Raymond T. Odierno to be Lieutenant General.

Army nomination of Maj. Gen. Stanley A. McChrystal to be Lieutenant General.

Marine Corps nominations beginning with Colonel Ronald L. Bailey and ending with Colonel Robert S. Walsh, which nominationswere received by the Senate and appeared in the Congressional Record on February 6, 2006.

Navy nomination of Rear Adm. Robert T. Conway, Jr. to be ViceAdmiral.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with James C. Ault and endingwith Maryanne C. Yip, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2005.

Air Force nomination of Barbara A. Hilgenberg to be Colonel.

Air Force nomination of Evelyn S. Gemperle to be Colonel.

Air Force nominations beginning with John W. Ayres, Jr. and ending with Alan E. Johnson, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with David Harrision Burdette and ending with Dominic O. Ubamadu, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Karen Marie Bachmann and ending with Mary V. Lussier, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Raymond L. Hagan, Jr. and ending with William H. Willis, Sr., which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Russell G. Boester and ending with Richard T. Shelton, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Diana Atwell and ending with Anne C. Sproul, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Gerald Q. Brown and ending with Lisa L. Turner, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Mark J. Batcho and ending with David J. Zemkosky, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nominations beginning with Tarek C. Abboushi and ending with John J. Ziegler III, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nomination of Jeffrey J. Love to be Lieutenant Colonel.

Air Force nomination of Fritzjose E. Chandler to be Major.

Air Force nomination of Jose F. Eduardo to be Major.

Air Force nominations beginning with Darwin L. Alberto and ending with Amy S. Woosley, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Air Force nomination of Julie K. Stanley to be Colonel.

Air Force nominations beginning with John Julian Aldridge III and ending with Susan L. Siegmund, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Isidro Acosta Cardeno and ending with Larry A. Woods, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Evelyn L. Byars and ending with Sheralyn A. Wright, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Ronald A. Abbott and ending with Jose Villalobos, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Dale R. Agner and ending with David A. Williams, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Mark Robert Ackermann and ending with Sheila Zuehlke, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Javier A. Abreu and ending with Kyle S. Wendfeldt, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Eric J. Ashman and ending with Kenneth C. Y. Yu, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Air Force nominations beginning with Bruce S. Abe and ending with Ann E. Zionic, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Air Force nominations beginning with Steven J. Acevedo and ending with Steven R. Zieber, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Army nominations beginning with Roberto C. Andujar and ending with Kenneth A. Young, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nominations beginning with Craig J. Agena and ending with John S. Wright, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nominations beginning with Daniel G. Aaron and ending with Marilyn D. Wills, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nominations beginning with William G. Adamson and ending with x2451□, which nominations were received by the Senate and appeared in the Congressional Record on December 13, 2005.

Army nomination of Michael J. Osburn to be Colonel.

Army nominations beginning with Margarett E. Barnes and ending with David E. Upchurch, which nominations were received by the Senate and appeared in the Congressional Record on December 20, 2005.

Army nominations beginning with John W. Alexander, Jr. and ending with Donald L. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with Susan K. Arnold and ending with Everett F. Ytes, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with James A. Amyx, Jr. and ending with Scott Willens, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with John E. Adrian and ending with David A. Young, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with Timothy S. Adams and ending with Pj Zamora, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with Jude M. Abadie and ending with John D. Yeaw, which nominations were received by the Senate and appeared in the Congressional Record on January 27, 2006.

Army nominations beginning with Lisa R. Leonard and ending with Bret A. Slater, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Army nominations beginning with Mitchell S. Ackerson and ending with Glenn R. Woodson, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Army nomination of Andrew H. N. Kim to be Colonel.

Army nominations beginning with Rendell G. Chilton and ending with David J. Osinski, which nominations were received by the Senate and appeared in the Congressional Record on February 6, 2006.

Marine Corps nomination of Brian R. Lewis to be Major.

Marine Corps nomination of William A. Kelly, Jr. to be Chief Warrant Officer W4.

Marine Corps nomination of Phillip R. Wahle to be Lieutenant Colonel.

Marine Corps nomination of James A. Croffie to be Lieutenant Colonel.

Marine Corps nominations beginning with James H. Adams III and ending with Richard D. Zyla, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Marine Corps nominations beginning with David T. Clark and ending with Nieves G. Villasenor, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2006.

Marine Corps nominations beginning with Ralph P. Harris III and ending with Charles L. Thrift, which nominations were received

by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Stephen J. Dubois and ending with John D. Paulin, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Jay A. Rogers and ending with Stanley M. Weeks, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Sean P. Hoster and ending with Timothy D. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Neil G. Anderson and ending with Edward M. Moen, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Carl Bailey, Jr. and ending with James A. Jones, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Gregory M. Goodrich and ending with Mark W. Wascom, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Jack G. Abate and ending with James Kolb, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Peter G. Bailiff and ending with Timothy D. Sechrest, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Israel Garcia and ending with James I. Saylor, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Ben A. Cacioppo, Jr. and ending with Walter D. Romine, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Peter M. Barack, Jr. and ending with John D. Somich, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Marine Corps nominations beginning with Benjamin J. Abbott and ending with Ruth A. Zolock, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2006.

Navy nominations beginning with Christopher P. Bobb and ending with Vincent J. Wood, which nominations were received by the Senate and appeared in the Congressional Record on December 21, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Randall S. Kroszner, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1994.

*Kevin M. Warsh, of New York, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2004.

*Edward P. Lazear, of California, to be a Member of the Council of Economic Advisers.

By Mr. SPECTER for the Committee on the Judiciary.

Timothy C. Batten, Sr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Thomas E. Johnston, of West Virginia, to be United States District Judge for the Southern District of West Virginia.

Aida M. Delgado-Colon, of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

Leo Maury Gordon, of New Jersey, to be a Judge of the United States Court of International Trade.

Carol E. Dinkins, of Texas, to be Chairman of the Privacy and Civil Liberties Oversight Board.

Alan Charles Raul, of the District of Columbia, to be Vice Chairman of the Privacy and Civil Liberties Oversight Board.

Paul J. McNulty, of Virginia, to be Deputy Attorney General.

Stephen C. King, of New York, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2008.

Reginald I. Lloyd, of South Carolina, to be United States Attorney for the District of South Carolina for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself, Mr. FRIST, Mr. NELSON of Florida, and Mrs. HUTCHISON):

S. 2293. A bill to authorize a military construction project for the construction of an advanced training skills facility at Brooke Army Medical Center, San Antonio, Texas; to the Committee on Armed Services.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2294. A bill to permanently prohibit oil and gas leasing off the coast of the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 2295. A bill to require the Secretary of the Army to conduct a survey and monitoring of off-shore sites in the vicinity of the Hawaiian Islands where chemical munitions were disposed of by the Army Forces, to support research regarding the public and environmental health impacts of chemical munitions disposal in the ocean, and to require the preparation of a report on remediation plans for such disposal sites; to the Committee on Armed Services.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. LEVIN, and Mr. LEAHY):

S. 2296. A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SCHUMER:

S. 2297. A bill to clarify the applicability of deadlines relating to construction of hydroelectric projects to certain hydroelectric projects located or proposed to be located on the Upper Hudson River in the State of New York; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 2298. A bill to facilitate remediation of perchlorate contamination in water sources in the State of California, and for other purposes; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2299. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to restore Federal aid for the repair, restoration, and replacement of private nonprofit educational facilities that are damaged or destroyed by a major disaster; to the Committee on Homeland Security and Governmental Affairs.

By Ms. STABENOW (for herself and Mr. LOTT):

S. 2300. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to market exclusivity for certain drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2301. A bill to suspend temporarily the duty on synthetic quartz or synthetic fused silica; to the Committee on Finance.

By Mr. LOTT:

S. 2302. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS:

S. 2303. A bill to ensure that the one half of the National Guard forces of each State are available to such State at all times, and for other purposes; to the Committee on Armed Services.

By Mr. BURR (for himself, Mr. KENNEDY, Mr. LOTT, and Mr. MENENDEZ):

S. 2304. A bill to recognize the right of the Commonwealth of Puerto Rico to call a constitutional convention through which the people of Puerto Rico would exercise their right to self-determination, and to establish a mechanism for congressional consideration of such decision; to the Committee on Energy and Natural Resources.

By Mr. AKAKA (for himself, Mr. OBAMA, Mr. BINGAMAN, Mr. INOUYE, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. KERRY, and Mr. LIEBERMAN):

S. 2305. A bill to amend title XIX of the Social Security Act to repeal the amendments made by the Deficit Reduction Act of 2005 requiring documentation evidencing citizenship or nationality as a condition for receipt of medical assistance under the Medicaid program; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. BOND):

S. 2306. A bill to amend the National Organ Transplant Act to clarify that kidney paired donation and kidney list donation do not involve the transfer of a human organ for valuable consideration; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. ENZI, and Mr. THOMAS):

S. 2307. A bill to enhance fair and open competition in the production and sale of agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SPECTER (for himself, Mr. BYRD, Mr. COCHRAN, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, and Mr. SANTORUM):

S. 2308. A bill to amend the Federal Mine Safety and Health Act of 1977 to improve mine safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to modify the definition of agri-biodiesel; to the Committee on Finance.

By Mr. WARNER:

S. 2310. A bill to repeal the requirement for 12 operational aircraft carriers within the Navy; to the Committee on Armed Services.

By Ms. COLLINS:

S. 2311. A bill to establish a demonstration project to develop a national network of economically sustainable transportation providers and qualified transportation providers, to provide transportation services to older individuals, and individuals who are blind, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 2312. A bill to require the Secretary of Health and Human Services to change the numerical identifier used to identify Medicare beneficiaries under the Medicare program; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. DAYTON):

S. 2313. A bill to amend title XVIII of the Social Security Act to permit medicare beneficiaries enrolled in prescription drug plans and MA-PD plans that change their formalities or increase drug prices to enroll in other plans; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. SCHUMER, Mr. KERRY, and Mrs. BOXER):

S. 2314. A bill to suspend the application of any provision of Federal law under which persons are relieved from the requirement to pay royalties for production of oil or natural gas from Federal lands in periods of high oil and natural gas prices, to require the Secretary to seek to renegotiate existing oil and natural gas leases to similarly limit suspension of royalty obligations under such leases, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 2315. A bill to amend the Public Health Service Act to establish a federally-supported education and awareness campaign for the prevention of methamphetamine use; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2316. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. HATCH, and Ms. STABENOW):

S. 2317. A bill to amend the Trade Act of 1974 to require the United States Trade Representative to identify trade enforcement priorities and to take action with respect to priority foreign country trade practices, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself and Mr. WARNER):

S. 2318. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

By Mr. OBAMA:

S. 2319. A bill to provide for the recovery from Hurricane Katrina, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. COLEMAN, and Ms. COLLINS):

S. 2320. A bill to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. CORNYN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. LEAHY, Mr. HATCH, and Mr. SPECTER):

S. Res. 373. A resolution expressing the sense of the Senate that the Senate should continue to support the National Domestic Violence Hotline, a critical national resource that saves lives each day, and commemorate its 10th anniversary; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 374. A resolution to authorize testimony, document production, and legal representation in United States of America v. David Hossein Safavian; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 375. A resolution to authorize testimony and legal representation in State of New Hampshire v. William Thomas, Keta C. Jones, John Francis Bopp, Michael S. Franklin, David Van Strein, Guy Chichester, Jamilla El-Shafei, and Ann Isenberg; considered and agreed to.

By Mr. REID:

S. Res. 376. A resolution to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al; considered and agreed to.

By Mr. FRIST:

S. Res. 377. A resolution honoring the life of Dr. Norman Shumway and expressing the condolences of the Senate on his passing; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. CHAMBLISS, Mr. FEINGOLD, Mr. KOHL, Mrs. MURRAY, Ms. COLLINS, Ms. SNOWE, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. BROWNBACK, Mrs. DOLE, Mr. JEFFORDS, and Mr. SPECTER):

S. Res. 378. A resolution designating February 25, 2006, as ''National MPS Awareness Day''; considered and agreed to.

By Mr. SANTORUM (for himself, Mr. NELSON of Florida, Mr. BURR, Mrs. DOLE, and Mr. ALLEN):

S. Res. 379. A resolution recognizing the creation of the NASCAR-Historically Black Colleges and Universities Consortium; considered and agreed to.

By Mr. ALEXANDER (for himself, Mr. COLEMAN, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. DOMENICI, Mr. GRAHAM, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. PRYOR, Mr. SANTORUM, Mr. HAGEL, Mr. DURBIN, Mrs. LINCOLN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. DEMINT, Mr. STEVENS, Mr. LAUTENBERG, Mrs. DOLE, Mr. REID, Ms. CANTWELL, Mr. MCCONNELL, Mr. ALLARD, Mr. TALENT, Mr. ALLEN, Mr. MENENDEZ, Mr. NELSON of Florida, Ms. STABENOW, Mr. BUNNING, Mr. DEWINE, Mr. OBAMA, Ms. SNOWE, Mr. ISAKSON, Mr. KOHL, and Mr. FRIST):

S. Res. 380. A resolution celebrating Black History Month; considered and agreed to.

By Mr. SALAZAR (for himself, Mr. ENSIGN, Ms. LANDRIEU, Mr. AKAKA, Mr. JOHNSON, Mr. KERRY, and Mrs. CLINTON):

S. Res. 381. A resolution designating March 1, 2006, as National Sibling Connection Day; to the Committee on the Judiciary.

By Mr. ISAKSON:

S. Con. Res. 81. A concurrent resolution recognizing and honoring the 150th anniversary of the founding of the Sigma Alpha Epsilon Fraternity; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. CRAIG, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 707

At the request of Mr. ALEXANDER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 707, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 912

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 912, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 1035

At the request of Mr. INHOFE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1289

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from California (Mrs. FEINSTEIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1289, a bill to provide for research and education with respect to uterine fibroids, and for other purposes.

S. 1687

At the request of Ms. MIKULSKI, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive

health measures with respect to breast and cervical cancers.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1934

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1998

At the request of Mr. CONRAD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1998, a bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes.

S. 2126

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2126, a bill to limit the exposure of children to violent video games.

S. 2157

At the request of Mrs. BOXER, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2157, a bill to amend title 10, United States Code, to provide for the Purple Heart to be awarded to prisoners of war who die in captivity under circumstances not otherwise establishing eligibility for the Purple Heart.

S. 2178

At the request of Mr. SCHUMER, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2178, a bill to make the stealing and selling of telephone records a criminal offense.

S. 2182

At the request of Mr. ISAKSON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2182, a bill to terminate the Internal Revenue Code of 1986, and for other purposes.

S. 2287

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2287, a bill to amend the Internal Revenue Code of 1986 to increase and permanently extend the expensing of certain depreciable business assets for small businesses.

S. 2290

At the request of Mr. PRYOR, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2290, a bill to provide for affordable natural gas by rebalancing domestic supply and demand and to promote the production of natural gas from domestic resources.

S. 2291

At the request of Mr. KENNEDY, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2291, a bill to provide for the establishment of a biodefense injury compensation program and to provide indemnification for producers of countermeasures.

S. RES. 371

At the request of Mr. THOMAS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. Res. 371, a resolution designating July 22, 2006, as ''National Day of the American Cowboy''.

S. RES. 372

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Res. 372, a resolution expressing the sense of the Senate that oil and gas companies should not be provided outer Continental Shelf royalty relief when energy prices are at historic highs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself, Mr. FRIST, Mr. NELSON of Florida, and Mrs. HUTCHISON):

S. 2293. A bill to authorize a military construction project for the construction of an advanced training skills facility at Brooke Army Medical Center, San Antonio, Texas; to the Committee on Armed Services.

Mr. FRIST. Mr. President I am reminded daily of the sacrifice of the men and women of this country who serve or have loved ones who serve in our armed forces. As a Tennessean I often think of the courage and honor displayed by members of the 101st Airborne out of Fort Campbell and the many Guardsmen and Reservists from my State who have served in both Iraq and Afghanistan. These soldiers, many of whom call Tennessee home, make great sacrifices for our Nation. I am saddened to think about those who have been wounded in recent military operations and in some cases are so severely injured that they require extensive medical care, along with years of treatment and rehabilitation. Their future quality of life and ability to provide for their families depends on the treatment and rehabilitation they receive from the country they have served.

As a physician I marvel at the great work of my colleagues in the Armed Services Medical Commands who treat the most severely injured military personnel. The use of improvised explosive devices in Iraq has resulted in many injuries including amputations, head trauma, and in some cases partial and full paralysis. We must meet the care and rehabilitation needs of the soldiers who have sacrificed so much for our country.

With this in mind I have joined with Senator LIEBERMAN to sponsor a bill to authorize the construction of a world-class state-of-the-art advanced training skills facility at Brooke Army Medical Center. This center will not only serve military personnel disabled in operations in Iraq and Afghanistan, but will also provide care to those severely injured in other operations and in the normal performance of their duties, both combat and non-combat related.

This center will provide necessary space and facilities for the rehabilitation needs of the patients and their caregivers. It will be constructed on a site sufficient in size to meet the needs of the center's patients and caregivers and will include top of the line indoor and outdoor facilities, a child care center, and other needed support facilities. I am proud of the service of our military personnel both past and present, and this new facility will go a long way in helping to meet their needs both now and into the future.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2294. A bill to permanently prohibit oil and gas leasing off the coast of the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, today, with my friend and colleague from California, DIANNE FEINSTEIN, I introduce the ''California Ocean and Coastal Protection Act.'' This bill will permanently protect California's coast from the dangers of new offshore drilling.

In California, there is strong and enduring public support for the protection of our oceans and coastlines. Many years ago, my State decided that the potential benefits that might be derived from future offshore oil and gas development were not worth the risk of destroying our priceless coastal treasures. Regular chronic leakage associated with normal oil and gas operations, as well as catastrophic spills such as the horrific Santa Barbara rig blowout in 1969, irreparably contaminate our ocean, beaches, and wetlands.

The beauty of California's coast is so important that California passed legislation permanently prohibiting oil and gas exploration in State waters in 1994. This protection is limited, however, to California's territorial waters—only three nautical miles out from shore.

The Federal waters off the coast of California, which extend beyond State waters to 200 nautical miles out, are increasingly at risk of drilling. Despite years of bipartisan support for the moratoria on new offshore drilling in Federal waters, recent efforts are threatening our coasts. Some recent proposals would immediately lift the moratoria and allow for drilling within 20 miles off our coasts. Last year's energy bill included provisions to conduct

an inventory of oil and gas resources on the outer Continental Shelf (OCS). This inventory would be performed with seismic guns that could have devastating impacts on marine life.

Because of these threats, I am introducing legislation to provide permanent protection for California's coast from future drilling. It would also prohibit the harmful inventory of OCS resources from being conducted off California's coast.

The people of California agree that we must do everything we can to protect our coasts. This bill will finally provide the permanent protection against future drilling that Californians have demanded for a generation.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the California Ocean and Coastal Protection Act, introduced by Senator BOXER and myself, to permanently protect California's coast from oil and gas drilling.

We simply cannot gamble away California's majestic coastline. An oil spill would scar our coastline, costing billions and destroying ecosystems. We cannot allow this to happen. The time has come to permanently protect this treasure.

California is virtually unified in its opposition to lifting the moratoria on drilling the Outer Continental Shelf.

Governor Schwarzenegger has publicly opposed offshore oil drilling and has called for the Federal Government to buy back the remaining 36 undeveloped Federal offshore oil and gas leases on the Outer Continental Shelf off the coast of central California.

The Governor has said that he ''oppose(s) any efforts to weaken the federal moratorium for oil and gas leasing off the coast of California and I support efforts to make the moratoria and the Presidential deferrals for California permanent.'' Letter to Congressman POMBO, 11/3/05.

That is what the bill we are introducing today would do—permanently protect California's coast from oil and gas drilling.

California's Resources Secretary Mike Chrisman, the secretary of California Environmental Protection Agency, Alan Lloyd, and the Lieutenant Governor, Cruz Bustamante, have also been on record opposing any effort to lift the congressional moratorium on offshore oil and gas leasing activities.

Secretary Chrisman, who is also the chairman of the California Ocean Protection Council, has in fact stated ''Any pending federal legislation regarding Outer Continental Shelf (OCS) oil and gas leasing must retain all protections from the Congressional leasing moratorium and should seek to make these protections permanent.'' Letter to Congressman POMBO, 9/27/05.

Californians are all too familiar with the consequences of offshore drilling. An oil spill in 1969 off the coast of Santa Barbara killed thousands of birds, dolphins, seals, and other animals. We know this could happen again.

A healthy coast is vital to California's economy and our quality of life. Ocean-dependent industry is estimated to contribute $17 billion to California each year.

Californians have spoken loud and clear that they do not want drilling on the Outer Continental Shelf. This bill will provide the coast of California with the permanent protection needed.

By Mr. AKAKA:

S. 2295. A bill to require the Secretary of the Army to conduct a survey and monitoring of off-shore sites in the vicinity of the Hawaiian Islands where chemical munitions were disposed of by the Army Forces, to support research regarding the public and environmental health impacts of chemical munitions disposal in the ocean, and to require the preparation of a report on remediation plans for such disposal sites; to the Committee on Armed Services.

Mr. AKAKA. Mr. President, I rise today to introduce legislation aimed to address the disposal of chemical weapons by the military from World War II until 1970. A report titled, Off-Shore Disposal of Chemical Agents and Weapons Conducted by the United States, lists possible sites and types of munitions that may be found in Hawaii.

The Department of Defense has made tremendous strides in protecting the health and welfare of our citizens. However, it still is working on being better stewards of our environment. I am pleased the Army has taken preliminary steps to investigate these munition disposal sites in and around Hawaii. Given the health and safety threats that these munitions may pose, I am introducing legislation to ensure the Army will obtain a full accounting of the munitions found and the state of their condition. Furthermore, it requires the Army to monitor these areas for any health, safety, and environmental risks that these weapons may pose. Lastly, and more important, the Army will provide a report on remediation plans for these areas.

Sadly the issue of disposing hazardous ordnance and waste is not new to the State of Hawaii. Our citizens are keenly aware of the dangers that hazardous waste poses to the health and safety of the public and the environment. In fact, Departments of Defense installations are responsible for generating half of all hazardous waste in Hawaii. For these reasons, it is important for Congress to send the right message, specifically in this case, and ensure that the Army completes its survey, monitors the sites, and provides a plan for remediation. I urge my colleagues to join me in passing this important legislation to ensure that, if the Department of Defense is responsible for disposing of hazardous materials, wherever it may be, then it should be held accountable for monitoring and providing a plan for remediation.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. LEVIN, and Mr. LEAHY):

S. 2296. A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUYE. Mr. President, I rise to speak in support of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act. I am introducing this bill today in commemoration of February 19, 1942, the day that President Roosevelt signed a document that authorized the internment of about 120,000 persons of Japanese ancestry. Each year, on the anniversary of this date, the internment is remembered both for the pain it caused, and the civics lessons that can be learned. I am certain that these lessons will propel this great Nation forward toward more equal justice for all.

The story of U.S. citizens taken from their homes in the west coast and confined in camps is a story that was made known after a fact-finding study by a Commission that Congress authorized in 1980. That study was followed by a formal apology by President Reagan and a bill for reparations. Far less known, and indeed, I myself did not initially know, is the story of Latin Americans of Japanese descent taken from their homes in Latin America, stripped of their passports, brought to the U.S., and interned in American camps.

This is a story about the U.S. government's act of reaching its arm across international borders, into a populous that did not pose an immediate threat to our nation, in order to use them, devoid of passports or any other proof of citizenship, for hostage exchange with Japan. Between the years 1941 and 1945, our government, with the help of Latin American officials, arbitrarily arrested persons of Japanese descent from streets, homes, and workplaces, and brought approximately 2,300 undocumented persons to camp sites in the U.S., where they were held under armed watch, then used for prisoner exchange. Those used in an exchange were sent to Japan, a foreign country that many had never set foot on since their ancestors' immigration to Latin America.

Despite their involuntary arrival, Latin American internees of Japanese descent were considered by the Immigration and Naturalization Service as illegal entrants. By the end of the war, many Japanese Latin Americans had been sent to Japan. Those who were not used in a prisoner exchange were cast out into a new and English-speaking country, and subject to deportation proceedings. Some returned to Latin

America, but some remained in the U.S., where their Latin American country of origin refused their re-entry because they were unable to present a passport.

When I first learned of the wartime experiences of Japanese Latin Americans, it seemed unfathomable, but indeed, it happened. It is a part of our national history, and it is a part of the living histories of the many families whose lives are forever tied to internment camps in our country.

The outline of this story was sketched out in a book published by the Commission on Wartime Relocation and Internment of Civilians formed in 1980. This Commission had set out to learn about Japanese Americans. Towards the close of their investigations, the Commissioners stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese persons living in Latin America. Because this finding surfaced late in its study, the Commission was unable to fully uncover the facts, but found them significant enough to include in its published study, urging a deeper investigation.

I rise today to introduce the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a fact-finding Commission to extend the study of the 1980 Commission. This Commission's task would be to determine facts surrounding the U.S. government's actions in regards to Japanese Latin Americans subject to the program of relocation, internment, and deportation. I believe that examining this extraordinary program would give finality to, and complete the account of federal actions to detain and intern civilians of Japanese ancestry.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Based on a preliminary study published in December 1982 by the Commission on Wartime Relocation and Internment of Civilians, Congress finds the following:

(1) During World War II, the United States—

(A) expanded its internment program and national security investigations to conduct the program and investigations in Latin America; and

(B) financed relocation to the United States, and internment, of approximately 2,300 Latin Americans of Japanese descent, for the purpose of exchanging the Latin Americans of Japanese descent for United States citizens held by Axis countries.

(2) Approximately 2,300 men, women, and children of Japanese descent from 13 Latin American countries were held in the custody of the Department of State in internment camps operated by the Immigration and Naturalization Service from 1941 through 1948.

(3) Those men, women, and children either—

(A) were arrested without a warrant, hearing, or indictment by local police, and sent to the United States for internment; or

(B) in some cases involving women and children, voluntarily entered internment camps to remain with their arrested husbands, fathers, and other male relatives.

(4) Passports held by individuals who were Latin Americans of Japanese descent were routinely confiscated before the individuals arrived in the United States, and the Department of State ordered United States consuls in Latin American countries to refuse to issue visas to the individuals prior to departure.

(5) Despite their involuntary arrival, Latin American internees of Japanese descent were considered to be and treated as illegal entrants by the Immigration and Naturalization Service. Thus, the internees became illegal aliens in United States custody who were subject to deportation proceedings for immediate removal from the United States. In some cases, Latin American internees of Japanese descent were deported to Axis countries to enable the United States to conduct prisoner exchanges.

(6) Approximately 2,300 men, women, and children of Japanese descent were relocated from their homes in Latin America, detained in internment camps in the United States, and in some cases, deported to Axis countries to enable the United States to conduct prisoner exchanges.

(7) The Commission on Wartime Relocation and Internment of Civilians studied Federal actions conducted pursuant to Executive Order 9066 (relating to authorizing the Secretary of War to prescribe military areas). Although the United States program of interning Latin Americans of Japanese descent was not conducted pursuant to Executive Order 9066, an examination of that extraordinary program is necessary to establish a complete account of Federal actions to detain and intern civilians of enemy or foreign nationality, particularly of Japanese descent. Although historical documents relating to the program exist in distant archives, the Commission on Wartime Relocation and Internment of Civilians did not research those documents.

(8) Latin American internees of Japanese descent were a group not covered by the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b et seq.), which formally apologized and provided compensation payments to former Japanese Americans interned pursuant to Executive Order 9066.

(b) PURPOSE.—The purpose of this Act is to establish a fact-finding Commission to extend the study of the Commission on Wartime Relocation and Internment of Civilians to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

SEC. 3. ESTABLISHMENT OF THE COMMISSION.

(a) IN GENERAL.—There is established the Commission on Wartime Relocation and Internment of Latin Americans of Japanese descent (referred to in this Act as the ''Commission'').

(b) COMPOSITION.—The Commission shall be composed of 9 members, who shall be appointed not later than 60 days after the date of enactment of this Act, of whom—

(1) 3 members shall be appointed by the President;

(2) 3 members shall be appointed by the Speaker of the House of Representatives, on the joint recommendation of the majority leader of the House of Representatives and the minority leader of the House of Representatives; and

(3) 3 members shall be appointed by the President pro tempore of the Senate, on the joint recommendation of the majority leader of the Senate and the minority leader of the Senate.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) MEETINGS.—

(1) FIRST MEETING.—The President shall call the first meeting of the Commission not later than the later of—

(A) 60 days after the date of enactment of this Act; or

(B) 30 days after the date of enactment of legislation making appropriations to carry out this Act.

(2) SUBSEQUENT MEETINGS.—Except as provided in paragraph (1), the Commission shall meet at the call of the Chairperson.

(e) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall serve for the life of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) extend the study of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act—

(A) to investigate and determine facts and circumstances surrounding the United States' relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States; and

(B) in investigating those facts and circumstances, to review directives of the United States armed forces and the Department of State requiring the relocation, detention in internment camps, and deportation to Axis countries; and

(2) recommend appropriate remedies, if any, based on preliminary findings by the original Commission and new discoveries.

(b) REPORT.—Not later than 1 year after the date of the first meeting of the Commission pursuant to section 3(d)(1), the Commission shall submit a written report to Congress, which shall contain findings resulting from the investigation conducted under subsection (a)(1) and recommendations described in subsection (a)(2).

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records,

correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(c) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to perform its duties. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. PERSONNEL AND ADMINISTRATIVE PROVISIONS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate the employment of such personnel as may be necessary to enable the Commission to perform its duties.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) OTHER ADMINISTRATIVE MATTERS.—The Commission may—

(1) enter into agreements with the Administrator of General Services to procure necessary financial and administrative services;

(2) enter into contracts to procure supplies, services, and property; and

(3) enter into contracts with Federal, State, or local agencies, or private institutions or organizations, for the conduct of research or surveys, the preparation of reports, and other activities necessary to enable the Commission to perform its duties.

SEC. 7. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report to Congress under section 4(b).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2007.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

By Mrs. FEINSTEIN:

S. 2298. A bill to facilitate remediation of perchlorate contamination in water sources in the State of California, and for other purposes; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I'm pleased to introduce this bill today to help California drinking water providers address the growing problem of perchlorate contamination.

The California Perchlorate Contamination Remediation Act authorizes funds for perchlorate remediation of contaminated water sources.

The bill provides: $50 million in grants for cleanup and remediation of perchlorate in water sources, including groundwater wells; and $8 million for research and development of new, cheaper, and more efficient perchlorate cleanup technologies.

The bill also expresses the sense of Congress that the Environmental Protection Agency should promulgate a national drinking water standard for perchlorate as soon as practicable.

The Defense Department and NASA use perchlorate in rocket fuel, missiles, and at least 300 types of munitions.

The Defense Department has used perchlorate since the 1950s. Perchlorate has a short shelf-life, and must be periodically replaced in the country's rocket and missile inventories.

Perchlorate readily permeates through soil and can spread quickly from its source. Over the last half century, improper disposal has allowed perchlorate to seep into surface and groundwater supplies.

Perchlorate contamination of drinking and irrigation water is a serious threat to public health.

Perchlorate interferes with the uptake of iodide into the thyroid gland. Since iodide helps regulate thyroid hormone production, perchlorate disrupts normal thyroid function. In adults, the thyroid helps regulate metabolism.

Infants and children are especially susceptible to the effects of perchlorate because the thyroid plays a critical role in proper development. Even unborn babies can be affected by perchlorate. Insufficient thyroid hormone production can severely retard a child's physical and mental development.

Perchlorate first appeared in drinking water wells in Rancho Cordova, CA in 1964. In 1985, the Environmental Protection Agency discovered perchlorate in several wells in the San Gabriel Valley in Southern California.

By 1997, it was detected in 4 counties in California and in the Colorado River, and by 1999 perchlorate was discovered in the water supplies of 12 States.

According to the California Department of Health Services at least 350 water sources in California, operated by 84 different local water agencies, now have perchlorate contamination.

But perchlorate is not just a California problem. A study by Government Accountability Office found perchlorate in the water supplies of 35 States.

The scope and magnitude of the perchlorate problem is still being defined and we are only beginning to discover the extent to which perchlorate has penetrated the food supply.

Recent sampling by the Centers for Disease Control and Prevention found perchlorate in people living in States without contaminated drinking water. This suggests people all over the country are exposed to at least trace levels of perchlorate.

In November 2004, the Food and Drug Administration released the results of its recent evaluation of perchlorate in the Nation's food. The FDA detected perchlorate in 90 percent of the lettuce samples taken from 5 different States, including California.

The FDA also found perchlorate in 101 out of 104 milk samples taken from retail stores around the country. Samples labeled as organic also contained perchlorate.

Last February, a study by researchers from Texas Tech University found perchlorate in all 36 samples of breast milk they tested. The milk was collected from women in 18 States, including California.

With such widespread contamination in my State and across the country, I have serious concerns about the health and well-being of the most vulnerable among the population—infants, toddlers, pregnant women, and those with compromised immune systems.

Let me speak for a moment about the challenges our water agencies are facing. As the population grows, so do the

demands on our water supply. During times of drought, these demands are particularly challenging.

States and communities rely upon their local water supplies, but are increasingly finding that these supplies are contaminated with perchlorate and other pollutants.

When Federal agencies fail to protect adjacent water supplies from perchlorate contamination, the problem falls to local and regional water agencies to fix.

These agencies already face staggering challenges both in delivering drinking water and managing wastewater services. Compounding these challenges with cleanup responsibilities for Defense Department activities is unfair, unreasonable, and unacceptable.

Perchlorate contamination in California is primarily the result of releases from 12 defense sites and several government contractor sites.

I applaud those contractors that have taken an active role in the cleanup of perchlorate. Unfortunately, clean up has only begun at a handful of contaminated sites.

In many cities and counties around California, wells are being taken out of service because of perchlorate contamination. Sometimes cities and water agencies are forced to bring in water from other sources, often at a much higher price. Other times, they must install costly perchlorate removal equipment.

This bill will provide much needed funds to water agencies for perchlorate remediation projects.

Now that perchlorate has been detected in the water sources of 35 States, it has become a national problem requiring a national solution.

I've approached several of my colleagues with a proposal that would address perchlorate contamination on a national level. My hope is that those representing States facing this problem will work with me on this issue.

Today there is no Federal drinking water standard for perchlorate. In the absence of a Federal standard, States have acted independently to establish health-related guidance or regulatory limits for perchlorate in drinking water.

The result is that each State has adopted a different preliminary guideline for perchlorate.

Let me give you a few examples: California established a Public Health Goal of 6 parts per billion; Texas has a Drinking Water Action Level of 4 part per billion; Nevada has a Public Notice Standard of 18 parts per billion; New York has a Drinking Water Planning Level of 5 parts per billion; Arizona has a Health-Based Guideline of 14 parts per billion; and Massachusetts has an interim public health goal of 1 part per billion.

Each of these States has adopted a different kind of regulatory guideline for perchlorate sending a confusing message to the public about what level is safe. It also frustrates the water agencies that strive to provide safe drinking water to consumers.

Clearly, it is time for the Federal Government to establish a national standard for perchlorate.

This bill would assist California water providers in their efforts to remove perchlorate from contaminated drinking water sources by providing $50 million dollars for 50 percent federally matched grants.

To address the challenge of removing perchlorate from all of our water supplies, we must invest in costeffective and timely remediation solutions. To underwrite this effort, $8 million will be authorized for grants for research and development of new, cheaper, more efficient perchlorate cleanup technologies.

It is time for the EPA to fulfill its obligation to protect public health. This bill expresses the sense of Congress that the EPA should promulgate a national drinking water standard for perchlorate under the timeline of the Safe Drinking Water Act as soon as practicable.

Perchlorate contamination has placed an enormous financial burden on the water agencies who strive to provide high quality, safe drinking water to the citizens of California. Cleaning up contaminated water sources is equivalent to creating new water, a growing need in my state and throughout the West.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''California Perchlorate Contamination Remediation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) because finite water sources in the United States are stretched by regional drought conditions and increasing demand for water supplies, there is increased need for safe and dependable supplies of fresh water for drinking and agricultural purposes;

(2) perchlorate, a naturally occurring and manmade compound with commercial and national defense applications, is used primarily in military munitions and rocket fuels, and also in fireworks, road flares, blasting agents, and automobile airbags;

(3) perchlorate has been detected in fresh water sources intended for drinking water and agricultural use in 35 States and the District of Columbia;

(4)(A) perchlorate has been detected in the food supply of the United States; and

(B) many fruits and vegetables, including lettuce, wheat, tomato, cucumber, and cantaloupe, contain at least trace levels of perchlorate, as do wine, whiskey, soy milk, dairy milk, and human breast milk; and

(5) if ingested in sufficient concentration and for adequate duration, perchlorate may interfere with thyroid metabolism, the effects of which may impair normal development of the brain in fetuses, newborns, and children.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide grants for remediation of perchlorate contamination of water sources and supplies (including wellheads) in the State;

(2) to provide grants for research and development of perchlorate remediation technologies; and

(3) to express the sense of Congress that the Administrator should establish a national drinking water standard for perchlorate.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CALIFORNIA WATER AUTHORITY.—The term ''California water authority'' means a public water district, public water utility, public water planning agency, municipality, or Indian tribe that is—

(A) located in a region identified under section 4(b)(3)(B); and

(B) in operation as of the date of enactment of this Act.

(3) FUND.—The term ''Fund'' means the California Perchlorate Cleanup Fund established by section 4(a)(1).

(4) STATE.—The term ''State'' means the State of California.

SEC. 4. CALIFORNIA PERCHLORATE REMEDIATION GRANTS.

(a) PERCHLORATE CLEANUP FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''California Perchlorate Cleanup Fund'', consisting of—

(A) any amount appropriated to the Fund under section 7; and

(B) any interest earned on investment of amounts in the Fund under paragraph (3).

(2) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), on receipt of a request by the Administrator, the Secretary of the Treasury shall transfer to the Administrator such amounts as the Administrator determines to be necessary to provide grants under subsections (b) and (c).

(B) ADMINISTRATIVE EXPENSES.—An amount not to exceed 0.4 percent of the amounts in the Fund may be used to pay the administrative expenses necessary to carry out this subsection.

(3) INVESTMENT OF AMOUNTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(B) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(D) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(E) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(b) CLEANUP GRANTS.—

(1) IN GENERAL.—Subject to paragraph (3), the Administrator shall provide grants to California water authorities, the total amount of which shall not exceed $50,000,000, to pay the Federal share of the cost of activities relating to cleanup of water sources and

supplies (including wellheads) in the State that are contaminated by perchlorate.

(2) FEDERAL SHARE.—The Federal share of the cost of an activity described in paragraph (1) shall not exceed 50 percent.

(3) ELIGIBILITY; PRIORITY.—

(A) ELIGIBILITY.—A California water authority that the Administrator determines to be responsible for perchlorate contamination shall not be eligible to receive a grant under this subsection.

(B) PRIORITY.—

(i) ACTIVITIES.—In providing grants under this subsection, the Administrator shall give priority to an activity for the remediation of—

(I) drinking water contaminated with perchlorate;

(II) a water source with a high concentration of perchlorate; or

(III) a water source that serves a large population that is directly affected by perchlorate contamination.

(ii) LOCATIONS.—In providing grants under this subsection, the Administrator shall give priority to an activity described in clause (i) that is carried out in 1 or more of the following regions in the State:

(I) The Santa Clara Valley.

(II) Regions within the natural watershed of the Santa Ana River, including areas in Riverside and San Bernardino Counties.

(III) The San Gabriel Valley.

(IV) Sacramento County.

(V) Any other region that has a damaged water source as a result of perchlorate contamination, as determined by the Administrator.

(c) RESEARCH AND DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Administrator shall provide grants, the total amount of which shall not exceed $8,000,000, to qualified non-Federal entities (as determined by the Administrator) for use in carrying out research and development of perchlorate remediation technologies.

(2) MAXIMUM AMOUNT OF GRANT.—The amount of a grant provided under paragraph (1) shall not exceed $1,000,000.

SEC. 5. EFFECT OF ACT.

Nothing in this Act affects any authority or program of a Federal or State agency in existence on the date of enactment of this Act.

SEC. 6. SENSE OF CONGRESS.

It is the sense of Congress that the Administrator should establish a national drinking water standard for perchlorate that reflects all routes of exposure to perchlorate as soon as practicable after the date of enactment of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $58,000,000, to remain available until expended.

By Ms. LANDRIEU:

S. 2299. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to restore Federal aid for the repair, restoration, and replacement of private nonprofit educational facilities that are damaged or destroyed by a major disaster; to the Committee on Homeland Security and Governmental Affairs.

Ms. LANDRIEU. Mr. President, I rise provide a bit of background regarding legislation that I am introducing today. The bill that I am sending to the desk would provide independent colleges and universities with direct, immediate aid through the Federal Emergency Management Agency, FEMA. Additionally, the bill would assist the recovery of non-profit education institutions from the extensive damage they sustain during natural disasters.

During crises, the critical role that small colleges and universities play in our communities is often overlooked or underestimated. In Louisiana, many of our colleges and universities are not only important in educating our students, but also in bolstering our economy.

In my home State, this legislation would benefit Delgado Community College, Dillard University, Loyola University New Orleans, Nunez Community College, Our Lady of Holy Cross College, Southern University at New Orleans, Sowela Technical Community College, Tulane University of Louisiana, University of New Orleans, McNeese State University and Xavier University of Louisiana.

Under current law, ''education'' has been omitted from the list of ''critical services'' for which facility repair assistance can be awarded directly and immediately. Until 2000, when Congress changed the law, education was always eligible for direct FEMA assistance for facility damages. This legislation simply restores education to its rightful position as a recognized critical service.

This is the only place in Federal law governing disaster assistance that makes this distinction between nonprofit and public colleges and universities. This equity must be restored. This legislation is not a demand for the start of a new program, but the restoration of these institutions long-held position under Federal law.

Recent media reports in the New York Times and USA Today have featured stories depicting the massive backlog of applications for aid options for those institutions not eligible for immediate, direct FEMA assistance. When disasters strike these institutions, which often already have limited resources, they incur an extensive range of costs for which they cannot secure any immediate Federal reimbursement or resources. These institutions cannot afford to lose a semester and neither can their students. They should be able to go directly to FEMA immediately, just as others do.

Congressman KENDRICK MEEK introduced a companion bill, H.R. 4517, in December and I look forward to working with him on this legislation. Our colleges and universities are something we cannot afford to ignore and they are vital to rebuilding the State of Louisiana. I hope that my colleagues will come together in support of this important legislation to support our colleges and universities in this time of need.

Ms. STABENOW (for herself and Mr. LOTT):

S. 2300. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to market exclusivity for certain drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, I rise today to introduce the Lower PRICED Drugs Act. I want to thank Senator TRENT LOTT for joining me on this important legislation, and for his leadership in increasing the availability of affordable generic drugs.

I am very pleased that our legislation is supported by AARP, General Motors Corporation, AFL-CIO, Alliance for Retired Americans, Families USA, the Generic Pharmaceutical Association, the Pharmaceutical Care Management Association, PCMA, the National Association of Chain Drug Stores, and the Coalition for a Competitive Pharmaceutical Marketplace—an organization including large national employers and insurers.

We know that greater availability of generic drugs translates into dramatic savings for consumers, manufacturers, businesses, and taxpayers. Of the 25 top selling drugs in 2004, the only one that did not increase in price was a drug available both in generic and over-the-counter form. And, according to the National Association of Chain Drug Stores, while the average retail price for a brand drug in 2004 was $96.01 the average retail price for a generic was $28.74, a savings of nearly 70 percent.

It's a very well known principle of economics: competition lowers prices.

But we don't need to rely on economic theory; we only have to look at what is happening with drug prices. Of the top five brand name drugs, by retail sales, the average price for 1 month's use of the cheapest among them is just over $76, and the 3rd most popular drug—zocor—is more than $140 per month. That's $1,680 per year for an important drug to lower cholesterol levels. The average price of the most popular five drugs—none of which faces generic competition—is over $114.

There is nothing to hold down the prices of these drugs, and in fact, even though many of them have been on the market for years and years, their prices continue to increase. I first checked the prices of these drugs last November, and then again on Monday of this week. The prices this week are higher, by several dollars in many cases, than they were last year.

However, consider the prices consumers pay for drugs for which there are generic equivalents. The most frequently dispensed generic drugs are hydrocodone, lisinopril, atenolol, amoxicillin and hydrocholorothiazide. Not only are these important drugs, used to treat pain, high blood pressure, and bacterial infections, considerably more affordable than their brand name equivalents, the average generic price is $9.34, representing a savings of more than 60 percent from the average brand price of $24.74, but the presence of competition has another important effect: The average price of these brand name drugs is a lot lower than the average price of brand drugs that don't face competition.

While the generic provisions in the Medicare Modernization Act, MMA,

made important progress, there still isn't timely competition in the pharmaceutical market.

New loopholes have been found to keep generics off the market, and keep prices higher than they need to be. In fact, in 2004, a year after AMA passed, brand name prescription drug prices rose by 7.1 percent, the biggest single-year price hike in 5 years.

Our bill would close several loopholes that prevent and delay generics from coming to market. It will increase access to affordable generic drugs and save consumers, businesses and Federal health programs billions of dollars annually.

The Lower PRICED Drugs Act would prevent abuse of the current pediatric exclusivity provision. It would ensure that pediatric exclusivity is used as intended, to generate information about the use of drugs in children, and prevent brand drug companies from keeping more affordable generic alternatives of drugs not suitable for children, or never studied in children, off the market.

For example, Pravigard PAC contains two widely used medications: pravastatin, used to lower cholesterol, and aspirin. Despite the fact that aspirin isn't safe in children, the manufacturer received a six-month pediatric extension. What sense does that make?

The manufacturer of Pravigard PAC even includes the following warning in the patient information they put out:

Who should *not* (manufacturer's emphasis) take PRAVIGARD PAC?

Do not take PRAVIGARD PAC if you: Are 18 years of age or younger. Children younger than 18 years should not use any product with aspirin in it.

Pediatric marketing extensions should not be given for products not suitable for children, like those containing aspirin.

Using pediatric marketing protections to extend brand name monopolies should be reserved for studies that help us learn more about drugs for kids, not to keep lower-cost generic alternatives of drugs for adults off the market.

Our bill would also remove an arbitrary roadblock to the entry of generic versions of certain antibiotics, close a loophole that allows drug companies to use the current complex rules for challenging drug patents as a delaying tactic against the introduction of generics and prevent abuses of the citizen petition process.

I look forward to working with Senator LOTT to create more competition, more choices, and more savings for American consumers of prescription drugs, and I urge colleagues to join us in this effort.

I ask unanimous consent to have the text of the bill and the letters of support we have received at this time printed in the RECORD.

There being no objection, the text of the material was ordered to be printed in the RECORD, as follows:

S. 2300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lower Prices Reduced with Increased Competition and Efficient Development of Drugs Act'' or the ''Lower PRICED Drugs Act''.

SEC. 2. GENERIC DRUG USE CERTIFICATION.

(a) IN GENERAL.—Section 505(j)(2)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)(A)) is amended—

(1) in clause (vii), by striking ''; and'' and inserting a semicolon;

(2) in clause (viii), by striking the period and inserting ''; and'';

(3) by inserting after clause (viii) the following:

''(ix) if with respect to a listed drug product referred to in clause (i) that contains an antibiotic drug and the antibiotic drug was the subject of any application for marketing received by the Secretary under section 507 (as in effect before the date of enactment of the Food and Drug Administration Modernization Act of 1997) before November 20, 1997, the approved labeling includes a method of use which, in the opinion of the applicant, is claimed by any patent, a statement that—

''(I) identifies the relevant patent and the approved use covered by the patent; and

''(II) the applicant is not seeking approval of such use under this subsection.''; and

(4) in the last sentence, by striking ''clauses (i) through (viii)'' and inserting ''clauses (i) through (ix)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any abbreviated new drug application under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) that is submitted on, before, or after the date of enactment of this Act.

SEC. 3. PREVENTING ABUSE OF THE THIRTY-MONTH STAY-OF-EFFECTIVENESS PERIOD.

(a) IN GENERAL.—Section 505(j)(5)(B)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(iii)) is amended—

(1) in the second sentence by striking ''may order'' and inserting ''shall order''; and

(2) by adding at the end the following: ''In determining whether to shorten the thirty-month period under this clause, the court shall consider the totality of the circumstances, including whether the plaintiff sought to extend the discovery schedule, delayed producing discovery, or otherwise acted in a dilatory manner, and the public interest.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any stay of effectiveness period under section 505(j)(5)(B)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(iii)) pending or filed on or after the date of enactment of this Act.

SEC. 4. ENSURING PROPER USE OF PEDIATRIC EXCLUSIVITY.

(a) DRUG PRODUCT.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by striking ''drug'' each place it appears and inserting ''drug product''.

(b) MARKET EXCLUSIVITY FOR NEW DRUGS.—Section 505A(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(b)) is amended—

(1) in the matter preceding paragraph (1), by—

(A) striking ''health'' and inserting ''therapeutically meaningful'';

(B) striking ''and'' after ''(which shall include a timeframe for completing such studies),''; and

(C) inserting '', and based on the results of such studies the Secretary approves labeling for the new drug product that provides specific, therapeutically meaningful information about the use of the drug product in pediatric patients'' after ''in accordance with subsection (d)(3)'';

(2) in paragraph (1)(A)—

(A) in clause (i), by—

(i) striking ''the period'' and inserting ''any period''; and

(ii) inserting ''that is applicable to the drug product at the time of initial approval'' after ''in subsection (j)(5)(F)(ii) of such section''; and

(B) in clause (ii), by—

(i) striking ''the period'' and inserting ''any period''; and

(ii) inserting ''that is applicable to the drug product at the time of initial approval'' after ''of subsection (j)(5)(F) of such section''; and

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''a listed patent'' and inserting ''a patent that was either listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''; and

(ii) in clause (ii) by striking ''a listed patent'' and inserting ''a patent that was either listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''; and

(B) in subparagraph (B), by striking ''a listed patent'' and inserting ''a patent that was either listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''.

(c) MARKET EXCLUSIVITY FOR ALREADY-MARKETED DRUGS.—Section 505A(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a(c)) is amended—

(1) in the matter preceding paragraph (1), by—

(A) striking ''health'' and inserting ''therapeutically meaningful'';

(B) striking ''and'' after ''the studies are completed within any such timeframe,''; and

(C) inserting '', and based on the results of such studies the Secretary approves labeling for the approved drug product that provides specific, therapeutically meaningful information about the use of the drug product in pediatric patients'' after ''in accordance with subsection (d)(3)'';

(2) in paragraph (1)(A)—

(A) in clause (i)—

(i) by striking ''the period'' and inserting ''any period''; and

(ii) by inserting ''that is applicable to the drug product at the time of initial approval'' after ''in subsection (j)(5)(F)(ii) of such section''; and

(B) in clause (ii)—

(i) by striking ''the period'' and inserting ''any period''; and

(ii) by inserting ''that is applicable to the drug product at the time of initial approval'' after ''of subsection (j)(5)(F) of such section''; and

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''a listed patent'' and inserting ''a patent that was either listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''; and

(ii) in clause (ii), by striking ''a listed patent'' and inserting ''a patent that was either

listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''; and

(B) in subparagraph (B), by striking ''a listed patent'' and by inserting ''a patent that was either listed when the pediatric study was submitted to the Food and Drug Administration or listed as a result of the approval by the Food and Drug Administration of new pediatric labeling that is claimed by the patent, and''.

(d) THREE-MONTH EXCLUSIVITY.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by—

(1) by striking ''six months'' each place it appears and inserting ''three months'';

(2) by striking ''six-month'' each place it appears and inserting ''three-month'';

(3) by striking ''6-month'' each place it appears and inserting ''three-month'';

(4) in subsection (b)(1)(A)(i), by striking ''four and one-half years, fifty-four months, and eight years, respectively'' and inserting ''four years and three months, fifty-one months, and seven years and nine months, respectively''; and

(5) in subsection (c)(1)(A)(i), by striking ''four and one-half years, fifty-four months, and eight years, respectively'' and inserting ''four years and three months, fifty-one months, and seven years and nine months, respectively''.

(e) DEFINITION.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended by adding at the end the following:

''(o) DRUG PRODUCT.—

''(1) IN GENERAL.—For purposes of this section, the term 'drug product' has the same meaning given such term in section 314.3(b) of title 21, Code of Federal Regulations (or any successor regulation).

''(2) SEPARATE DRUG PRODUCTS.—For purposes of this section, each dosage form of a drug product shall constitute a different drug product.''.

GENERIC PHARMACEUTICAL ASSOCIATION,
Arlington, VA, February 15, 2006.

Hon. DEBBIE STABENOW,
U.S. Senate.
Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATORS STABENOW AND LOTT: On behalf of the Generic Pharmaceutical Association, I would like to commend you on your efforts to making life-saving medicines more affordable and accessible. Your commitment to improving access to generic drugs will ensure that more patients receive and utilize the prescription drug treatments they need. Additionally, generic drugs are an essential cost containment tool for public health programs such as Medicaid and Medicare, and your efforts will allow for these programs to cover more treatments and help more beneficiaries.

As you know, despite continued efforts to close unintended loopholes that delay generic competition, unnecessary barriers to market entry remain. These loopholes delay the timely introduction of affordable medicines, forcing consumers, insurers, and the government to pay brand prices for years to come. Your proposed legislation, the Lower Priced Drugs Act, includes important provisions to facilitate greater access to generic antibiotics, combat against frivolous patent abuse by brand companies, provide greater accountability into the citizen petition process, and bring meaningful reform to the pediatric exclusivity period.

The Generic Pharmaceutical Association supports the Lower Priced Drugs Act, and the industry applauds your efforts to control the rising costs of prescription drugs. We strongly encourage consideration and passage of this legislation to bring meaningful reform to the system and increase the quality and affordability of healthcare for all Americans.

Sincerely,

KATHLEEN JAEGER,
President & CEO.

AARP,
February 15, 2006.

Hon. DEBBIE STABENOW,
U.S. Senate, Washington, DC.

DEAR SENATOR STABENOW: AARP is pleased to endorse the ''Lower Prices Reduced with Increased Competition and Efficient Development of Drugs Act,'' which we believe will help bring lower priced generic drugs to the marketplace.

Prescription drug therapies have become more prevalent in modern medicine. However, the cost of these therapies has skyrocketed in recent years. Brand name prescription drugs continue to rise at more than double the rate of inflation. Consumers, governments, and health care payers cannot continue to shoulder these costs. More must be done to make drug therapies more affordable.

Brand name prescription drug manufacturers are rewarded for their innovation and research in the form of patent exclusivity. Unfortunately oftentimes some brand name manufacturers seek to artificially extend the life of their patents by utilizing legal loopholes or engaging in unnecessary litigation. AARP believes the legislation sponsored by you and Senator Lott takes a necessary step towards closing some of these loopholes.

Generic drugs cost far less than their brand name equivalents. Your proposal would close an FDA loophole by allowing a generic drug manufacturer to bring certain antibiotics to market, thereby providing the ability to take advantage of these lower-priced drugs. In addition, your legislation seeks to prevent brand name manufacturers from abusing the current 30-month stay-of-effectiveness period by engaging in unnecessary litigation as a means to artificially extend the life of their patents. Equally important is the requirement that in order to be granted a patent extension under the pediatric exclusivity rules, a brand name manufacturer must engage in meaningful research into pediatric use. Finally, your legislation would prevent the filing of citizen petitions solely as a means to halt the approval of generic drugs.

This bill makes some important strides in helping to make lower cost drugs available and we look forward to working with you and your colleagues to advance this initiative. If there are any further questions, please do not hesitate to call me, or have your staff call Anna Schwamlein of our Federal Affairs staff at (202) 434–3770.

Sincerely,

DAVID P. SLOANE,
Sr. Managing Director, Government Relations and Advocacy.

CCPM,
February 15, 2006.

Hon. TRENT LOTT,
Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATORS LOTT AND STABENOW: On behalf of the Coalition for a Competitive Pharmaceutical Market CCPM, we commend you for your commitment to increase timely access to affordable generic medications for all Americans. We greatly appreciate your work and applaud you for the introduction of The Lower Prices Reduced with Increased Competition and Efficient Development of Drugs Act The Lower Priced Drugs Act.

CCPM is an organization of employers, insurers, generic drug manufacturers, pharmacy benefit managers and others committed to improving consumer access to safe, affordable pharmaceuticals. CCPM members strongly support public policies that help manage soaring prescription drug costs, which have increased by double-digit rates annually and are unsustainable. Continuing to obtain and provide prescription drug coverage is a tremendous challenge, with the skyrocketing costs pressuring reductions in benefits and undermining the ability of CCPM members to compete in the global marketplace. The Lower Priced Drug Act will help CCPM members in this effort.

We have made significant strides working with congress to close some of the loopholes that keep generic drugs off the market even after brand drug patents have expired. However, other abuses and misuses of the Hatch-Waxman law still exist and need to be fixed. The Lower Priced Drugs Act addresses several remaining obstacles to generic drugs while ensuring patient safety. The American people will benefit from this legislation's efforts to 1) reform the application of pediatric exclusivity to apply only to those products for which pediatric exclusivity was intended; 2) provide an avenue for approval of additional generic antibiotics; 3) reduce efforts to delay generic entry for other pharmaceutical products when patents are challenged in court, and; 4) reform the citizen petition process at the FDA.

Generic drugs are equally safe and effective as brand drugs and save consumers, employers, and Federal and State Government programs such as Medicare and Medicaid, billions of dollars. CCPM supports your legislation, and we thank you for continuing the fight to find market driven solutions to the rising costs of prescription drugs. We look forward to working with you to ensure that the Lower Priced Drugs Act is carefully considered and becomes law.

Sincerely,

ANNETTE GUARISCO,
Chair, Coalition for a Competitive Pharmaceutical Market (CCPM).

GENERAL MOTORS CORPORATION,
Washington, DC. February 15, 2006.

The Hon. TRENT LOTT,
U.S. Senate,
Hon. DEBORAH STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATORS LOTT AND STABENOW: On behalf of the General Motors Corporation, I am writing in support of the ''Lower Prices with Increased Competition and Efficient Development of Drugs Act,'' the Lower Priced Drugs Act of 2006. GM believes that the leadership role that you are playing makes an important contribution toward sound policies that will help bring more affordable generic drugs to the market and save consumers billions of dollars.

GM supports ''The Lower Priced Drugs Act'' as it would increase access to safe, effective and affordable drugs for our 1.1 million beneficiaries and all other Americans. We commend you for your leadership and bipartisan efforts to improve our health care system. We look forward to working with you to pass this important piece of legislation.

Sincerely,

KEN W. COLE,
Vice President.

By Mr. BAUCUS:

S. 2303. A bill to ensure that the one half of the National Guard forces of each State are available to such State at all times, and for other purposes; to the Committee on Armed Services.

Mr. BAUCUS. Mr. President, I rise to support one of our Nation's most important domestic policy issues—national security. I understand that some would expect me to say competitiveness or health care or farms or the environment or education, but what is happening with national security today greatly concerns me.

In the future, I will continue to address different aspects of this issue of national security. I will address the war on terror and future threats to our Nation. But today I will focus on the primary point of failure in keeping the United States safe: how we are meeting our responsibility to the troops.

The support of our troops is at the core of every national security issue we face. I urge Members of Congress from both sides of the aisle to join me in providing our troops with the tools they need to succeed.

We are so fortunate to have such a vast number of Americans who are committed to fighting for our country, to laying their lives on the line every day to protect the freedoms we enjoy. The first thing we must do for our warfighters is to keep them safe.

I want to know why, after 4 years of fighting the war on terror, our soldiers do not have the very best that they need to get the job done.

Last week, President Bush presented his fiscal year 2007 budget to the Congress. Even though the defense budget accounts for most of the discretionary budget, we still have service members without the equipment they need.

Last month, a Pentagon study revealed that dozens of American lives, soldiers' lives, would not have been lost in Iraq if soldiers had the proper side body armor. To make matters worse, the military is already operating with an equipment shortage. When troops deploy overseas, often most of their equipment is left behind, left in the theater and not replaced at armories and air wings. This leaves us vulnerable at home and dangerously affects national security. How will we be protected if our soldiers are not?

The administration proposes to spend $439 billion on national security this year. That is 45 percent more Pentagon funding than when President Bush took office 5 years ago.

There is a war supplemental on the way—more money. Let me make it clear that I do not oppose the defense budget. I respect that it is the job of the Secretary of Defense to assess the needs of the military in the coming year. I commend him. For example, I commend him on increasing the funding for special operations. But despite this vast budget, our troops are still taking a hit.

The funding for high-tech weapons systems doubled in current dollars from $42 billion in 1996 to $84 billion in 2007. In order to pay for these big-ticket items, the 2007 budget reins in personnel costs.

The military pay raise is only 2.2 percent. Previous years, it has been between 3 and 4 percent. During the Clinton administration, we saw military pay raises as high as 4.8 percent. It is unacceptable to me that the President proposes an increase in pay for our military that is less than the current rate of inflation, which is 3.4 percent. Our military personnel are losing ground with this so-called increase, and this at a time when we are asking so much of them—a time when we are at war. Troops have had multiple and lengthy deployments.

Haven't we all heard the stories of 18-year-olds swiftly driving humvees down the roads of Iraq, praying that they will avoid roadside bombs and shoulder-fired missiles? Some of these young men and women joined the military after 9/11 seeking retribution; others joined intent on finding a way to college. They are all patriots who should be honored.

I am concerned that we are in a fight right now between force structure and weapons systems. Our troops are caught in the crossfire. If they lose, we lose—at a time when we desperately need boots on the ground, particularly here at home.

We are well aware that our National Guard has risen to the challenges of the war on terror in an unprecedented way. Our national security, however, is compromised on the homefront. Our States do not have the ability to respond with sufficient combat structure to domestic security missions, natural emergencies, and disasters.

Former Secretary of Defense Melvin Laird noted last week:

> When you call out Guard and Reserve units, you call out America.

Our Active-Duty Forces have fought bravely on our behalf, and the Guard has fought with them.

Montana is just one of the States with an infantry battalion that is facing major changes due to the Army's proposal to reduce 34 combat brigades to 28. We have based much of our State's military strategy on the capabilities and equipment our infantry battalion provides.

The combat brigades provide a balance of combat force structure to the combat service support units already in the State. This balance is essential to ensure that we have the full spectrum of capabilities within Montana for homeland defense and national security.

I am introducing a bill today which will ensure that each adjutant general will have the resources of 50 percent of their National Guard troops available to them at all times in the State. Deployments overseas will not be allowed to exceed that number. This bill recognizes the national security contribution of the Air National Guard and the Army National Guard, in particular the brigade combat teams and their subordinate units. This will help the country to achieve a standard level of emergency preparedness.

When those troops come home, Active and Reserve, they must come home to jobs and veterans' benefits. That is the only right thing to do. In its 2007 budget for the Department of Veterans Affairs, the administration calls for a 6-percent increase in total veterans spending to $36 billion. Much of this increase, however, depends on the adoption of new health care fees. For example, the budget proposes a $250 enrollment fee and an increase in prescription drug copayments to $15, from $8, for higher income, less disabled veterans. If these new fees are adopted, they would dissuade 200,000 veterans from even enrolling in the VA health care system. The veterans themselves are paying for the increase to the veterans budget. That is what is happening.

I frequently hear that questioning issues of national security undermines the missions of our troops and that some Members of Congress just criticize and do not have a plan. Well, here is the plan: It is imperative that we provide everything possible for our troops in order to keep the United States safe. We have a responsibility to speak up on their behalf because I firmly believe that when we neglect our troops—including our National Guard men and women—we are gambling with the national security of our Nation.

We have the best soldiers, airmen, marines, and sailors in the world. I have tremendous respect for all of them, and I am committed to helping them succeed. We are engaged in a war now, and we must give our troops the tools to win overseas while simultaneously protecting our homefront.

I urge my colleagues to pay close attention to this bill I am introducing. I hope that at the appropriate time, we can get it enacted, basically get some more balance to our force structure, and also make sure our National Guard and Army and Air Guard have the support they need, not only for themselves but to keep our country safe and secure.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I commend my colleague for raising this important issue which affects every State in the Union. Of our National Guard in Illinois, 80 percent have been deployed overseas, and more this year. At this point, they have come home to empty parking lots where they used to have vehicles and equipment which they trained on and would use at times of national emergency.

We cannot allow this Guard to become a hollow Army. It must be a viable force. I look forward to reviewing the bill the Senator introduced to see if I can join him in this effort to strengthen our Guard nationwide.

By Mr. BURR (for himself, Mr. KENNEDY, Mr. LOTT, and Mr. MENENDEZ):

S. 2304. A bill to recognize the right of the Commonwealth of Puerto Rico to call a constitutional convention through which the people of Puerto Rico would exercise their right to self-determination, and to establish a mechanism for congressional consideration of such decision; to the Committee on Energy and Natural Resources.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator BURR and other colleagues in supporting the Puerto Rico self-determination act.

Puerto Rico and its four million residents have enjoyed a positive relationship with the United States since the island's commonwealth status was established over 50 years ago. But it's important for all of us to protect the right of the Puerto Rican people to self-determination, and this legislation will do so.

Our bill calls for a constitutional assembly in Puerto Rico composed of delegates elected by the Puerto Rican people. The delegates will determine the appropriate options for inclusion in a referendum to enable the Puerto Rican people to decide the future status of the island.

Congress will have the final say on the referendum, but the process should start with the people of Puerto Rico and not in Washington. A constitutional assembly will best serve their interest by letting us know their wishes.

The people of Puerto Rico are U.S. citizens, and many of them have served our Nation with great courage and sacrifice in Iraq and Afghanistan. At the very least we owe them a fair and democratic process in determining their future.

The recommendations in the report released in December by the White House task force on the status of Puerto Rico do not adequately address this basic issue, since the options suggested in the report do not give Puerto Ricans the fair choice they deserve.

The possibility of change in the current status has stirred intense debate in recent years, and this bill is intended to allow a fair solution that respects the views of all sides in the debate. I urge my colleagues to support this legislation as the most effective way to resolve this issue and give the people of Puerto Rico the respect they deserve.

By Mr. AKAKA (for himself, Mr. OBAMA, Mr. BINGAMAN, Mr. INOUYE, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. KERRY, and Mr. LIEBERMAN):

S. 2305. A bill to amend title XIX of the Social Security Act to repeal the amendments made by the Deficit Reduction Act of 2005 requiring documentation evidencing citizenship or nationally as a condition for receipt of medical assistance under the Medicaid program; to the Committee on Finance.

Mr. AKAKA. Mr. President, I rise to introduce legislation to repeal a provision in the Deficit Reduction Act that will require people applying or reapplying for Medicaid to verify their citizenship with a U.S. passport or birth certificate. I thank my cosponsors of this legislation, Senators OBAMA, BINGAMAN, INOUYE, LAUTENBERG, JEFFORDS, KERRY, and LIEBERMAN for their support.

This provision must be repealed before it goes into effect July 1, 2006. We have arrived at this conclusion because it will create barriers to health care, and from information we have gathered from agencies, it is unnecessary and will be an administrative burden to implement. These are reasons for this legislation. The Center on Budget and Policy Priorities estimates that more than 51 million individuals in this country would be burdened by having to produce additional documentation. In 16 States—Arizona, California, Florida, Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, and Washington—more than a million Medicaid beneficiaries will be required to submit the additional documents to receive or stay on Medicaid. In Hawaii, an estimated 392,000 people who are enrolled in Medicaid will be required to produce the additional documentation.

The requirements will disproportionately impact low-income, racial and ethnic minorities, indigenous people, and individuals born in rural areas without access to hospitals. Due to discriminatory hospital admission policies, a significant number of African-Americans were prevented from being born in hospitals. One in five African Americans born during 1939–1940 do not have birth certificates.

We need to ensure that Medicaid beneficiaries are not discriminated against and do not lose access to care, simply because they do not have a passport or birth certificate. Data from a survey commissioned by the Center on Budget and Policy Priorities is helpful in trying to determine the impact of the legislation. One in 12 U.S.-born adults, who earn incomes less than $25,000, report they do not have a U.S. passport or birth certificate in their possession. Also, more than 10 percent of U.S.-born parents, who have incomes below $25,000, do not have a birth certificate or passport for at least one of their children. An estimated 3.2 to 4.6 million U.S. born citizens may have their Medicaid coverage threatened simply because they do not have a passport or birth certificate readily available.

Some groups are at a greater risk for losing their Medicaid coverage. Nine percent of African-American adults reported they did not have the needed documents. Seven percent of people over age 65 also report that they do not have birth certificates. Many others will also have difficulty in securing these documents, such as Native Americans born in home settings, Hurricane Katrina survivors, and homeless individuals.

It is difficult enough to get access to health care, let alone acquire a birth certificate or a passport before seeking treatment. Some beneficiaries may not be able to afford the financial cost or time investment associated with obtaining a birth certificate or passport. The Hawaii Department of Health charges $10 for duplicate birth certificates. The costs vary by State and can be as much as $23 to get a birth certificate or $87 to $97 for a passport. Taking the time and obtaining the necessary transportation to acquire the birth certificate or a passport, particularly in rural areas where public transportation may not exist, creates a hardship for Medicaid beneficiaries. Failure to produce the documents quickly may result in a loss of Medicaid eligibility.

Further compounding the hardship is the failure to provide an exemption for individuals suffering from mental or physical disabilities from the new requirements. I am really afraid that those suffering from diseases such as Alzheimer's may lose their Medicaid coverage because they may not have or be able to easily obtain a passport or birth certificate.

It is likely these documentation requirements will prevent beneficiaries who are otherwise eligible for Medicaid to enroll in the program. This will result in more uninsured Americans, an increased burden on our healthcare providers, and the delay of treatment for needed health care.

The hardships that will be imposed are unnecessary due to existing requirements that check immigration status. A 2005 study by the Health and Human Services Office of the Inspector General concluded there is no substantial evidence indicating that illegal immigrants claiming to be U.S. citizens are successfully enrolling in Medicaid.

Twenty-eight of 47 Medicaid directors, surveyed by the Health and Human Services Inspector General, indicated that requiring documentary evidence of citizenship would delay eligibility determination. Twenty-five believe that providing additional evidence would result in increased eligibility personnel costs. State Medicaid Agencies would likely have to hire additional personnel to handle the increased workload with significant, additional administrative and financial costs. Twenty-one believe that it would be burdensome or expensive for applicants to obtain a birth certificate or other documentation.

In my home State, the Hawaii Primary Care Association estimates the administrative costs for our Department of Human Services will result in an increased cost of $640,000. Mr. John McComas, the Chief Executive Officer, of AlohaCare, stated, ''We anticipate that there will be significant administrative costs added to our already overburdened Medicaid programs. These

provisions are absolutely unnecessary and place an undue burden on the Medicaid beneficiary, to our entire Medicaid program, and ultimately to our entire state.''

I am frequently frustrated by the inability of the Congress to enact measures to improve health care for Americans. A misconceived provision to mandate these additional documentation requirements will cause real people real pain, and create public health and administrative difficulties. The provision in the Deficit Reduction Act will force every current and future Medicaid beneficiary to produce a passport or birth certificate. I look forward to my colleagues working with me to repeal this provision. I am hopeful that as my friends in the Senate go home during recess, they talk with their constituents at health centers, State Medicaid offices, and social service organizations, and hear how important it is to them for this legislation to be enacted to protect access to Medicaid.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD, as well as letters of support and concern from AlohaCare, the Association of Asian Pacific Community Health Organizations, Maternal and Child Health Access, the Hawaii Primary Care Association, and Siren.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF REQUIREMENT FOR DOCUMENTATION EVIDENCING CITIZENSHIP OR NATIONALITY AS A CONDITION FOR RECEIPT OF MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) REPEAL.—Subsections (i)(22) and (x) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6036 of the Deficit Reduction Act of 2005, are each repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(A) in subsection (i)—

(i) in paragraph (20), by adding ''or'' after the semicolon at the end; and

(ii) in paragraph (21), by striking ''; or'' and inserting a period;

(B) by redesignating subsection (y), as added by section 6043(b) of the Deficit Reduction Act of 2005, as subsection (x); and

(C) by redesignating subsection (z), as added by section 6081(a) of the Deficit Reduction Act of 2005, as subsection (y).

(2) Subsection (c) of section 6036 of the Deficit Reduction Act of 2005 is repealed.

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

MATERNAL AND CHILD HEALTH ACCESS,
Los Angeles, CA, February 16, 2006.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: I am pleased to write a letter of support for your bill to amend title XIX of the Social Security Act to repeal the amendments made by the Deficit Reduction Act of 2005 requiring documentation of citizenship or nationality as a condition for receipt of medical assistance under the Medicaid program.

Maternal and Child Health Access has provided assistance to thousands of families seeking medical coverage since the early 1990s. In addition to the families we serve, we educate and train other social service agencies and clinics about health coverage programs and thus have the opportunity to hear their experiences in assisting low-income people to apply for Medicaid. In California, we are ecstatic that nearly 90% of the children eligible have been enrolled in Medicaid or our S–CHIP program, Healthy Families. We have celebrated the fact that with few exceptions, the process of obtaining health care coverage for low-income families presents fewer barriers than in prior years. The requirement that Medicaid applicants provide birth certificates would be an unfortunate reversal of that trend.

Even now, even with no requirement for such documentation, Eligibility Workers mistakenly demand birth certificates as part of the Medicaid application process. We see that the need to provide such documentation causes untoward delays in obtaining health care. For example, my office recently assisted the family of a two-year-old child who had never had Medi-Cal due to the Los Angeles County Eligibility Worker's erroneous demand for a birth certificate from the client's home state, which had been impossible to obtain. The child's health care visits were delayed and inferior to what a two-year-old should have had.

In California, birth certificates cost $17 and require a notarized application, or sworn statement under penalty of perjury. In addition to the added expense of notarizing, an additional $25–$50 depending on the ability of often-unscrupulous notaries to charge, making people swear under penalty of perjury is intimidating and will discourage people from applying. It takes four to six months to obtain birth certificates for newborns and if obtained in person, require travel to a different office than for duplicate copies that might be needed for adults or other children who need them. I see no flexibility in the amendments as passed to allow for families with no disposable income to obtain the birth certificates timely.

There is absolutely no need for a drastic measure of this sort. A comprehensive study conducted last year by the Health and Human Services Inspector General, ''Self-Declaration of U.S. Citizenship Requirements for Medicaid,'' July 2005, failed to find any substantial evidence that illegal immigrants are fraudulently getting Medicaid coverage by claiming they are citizens. Notably, the Inspector General did not recommend requiring that documentation of citizenship be required. State officials interviewed by the Inspector General's office also noted that such a requirement would add significant administrative costs and burdens. Half of the state officials interviewed said they would have to hire more eligibility personnel to handle the increased workload.

Requiring a birth certificate will cause delays in obtaining needed medical coverage and care and unnecessary costs for applicants, states and counties. If we truly care about ensuring that children, pregnant women, disabled people, seniors and others in need obtain the health care that may enable them to continue to be productive citizens or ensure their readiness for school, we should not be putting unnecessary costly barriers in their way.

I thank you on behalf of the low income people my agency serves daily.

Sincerely,

LYNN KERSEY,
MA, MPH, Executive Director.

HAWAI'I PRIMARY CARE ASSOCIATION,
Honolulu, HI, January 25, 2006.

Hon. SENATOR DANIEL AKAKA,
Re Proposed birth certificate or passport requirement for Medicaid application.

DEAR SENATOR AKAKA: The Hawai'i Primary Care Association would like to register our strong opposition to recently proposed federal legislation that would require a birth certificate or passport for each Medicaid applicant, and to ask for your assistance to avert this mandate. We object to this change because it is completely unnecessary to prevent application fraud but would be a considerable barrier to legitimate applicants and add to the cost incurred by public and private agencies to complete and process applications.

Unnecessary barrier. In the ample experience of community health centers in Hawai'i and the Primary Care Association's Hawai'i Covering Kids Project, immigrants, fearful of jeopardizing their immigration status, are hesitant to apply for programs for which they are clearly eligible. Undocumented immigrants are even less likely to call attention to themselves, for obvious reasons. The Hawai'i State Department of Human Services, which monitors and checks into self-declared eligibility status, has found no evidence of fraud in this area.

The following are some of the ways this proposed requirement would deter legitimate applicants: Some people do not have birth certificates because they were born at home or in areas with no official registries (e.g., on plantations). People who are mentally ill or homeless may be unable to produce original or duplicate birth certificates. In the event of a hurricane or other disaster, many people will be unable to find documents, and public agencies may be in disarray so that they can't provide duplicates. In an emergency medical situation, an uninsured person may not be able to find a birth certificate. The Hawai'i Department of Health (DOH) charges $10 for duplicate birth certificates. Procuring one for each family member that is applying or renewing not only takes the applicant away from work or other activities to stand in line at DOH, but also can be prohibitively expensive. The application and enrollment procedure will take longer and result in delays in coverage that might cause serious health problems and put the health care provider and individual at financial risk.

Processing costs. If this regulation is implemented it will result in more administrative costs for DHS and for agencies that assist applicants. All current Medicaid customers must also be asked to submit a birth certificate or passport. This requires paper, envelopes, and mailing costs. When documents arrive at a Medicaid office, they must be matched to a record, noted in the electronic case file, and stored in the customer's case file. If the customer does not produce the required document, the case will be closed. However, this person is otherwise eligible for benefits, therefore when she/he locates a birth certificate a new application will not only be submitted, but also the Medicaid office must review it and open a new case. Hawai'i's Medicaid offices receive approximately 66,000 applications annually. New applications without birth certificates or passports attached will be sent ten-day pending notices. This requires paper, envelopes, and mailing costs. If the document is not received in the time allotted, the application will be denied. If mailing notices and updating or closing each current Medicaid file takes at least 10 minutes of public workers' time, the current Med-QUEST enrollment of over 200,000 customers will take 33,333 hours and cost $640,000.

Assumptions: 15 minutes to send notices and update or close files. 2,080 is the number

of work hours per year. Salary plus operating costs per worker is $40,000 per year.

Cost: 16 eligibility workers will work full-time for a year at a cost of $640,000.

In summary, we believe there is no good reason to implement the proposed regulations and ample reasons to maintain the current procedure that allows self-declaration. We ask for your help in this matter to make sure Medicaid continues to serve the most vulnerable members of our communities.

Sincerely,

BETH GIESTING,
Executive Director.

DEAR SENATOR AKAKA: I have just been informed about your bill to repeal the citizenship documentation requirements contained in the reconciliation bill. On behalf of the Services, Immigrant Rights and Education Network (SIREN), I write to express our support for Senator Akaka's bill.

SIREN is a leading organization in Silicon Valley dedicated to providing immigrant rights advocacy, community education and naturalization assistance to Santa Clara County's diverse immigrant communities. We believe that a requirement to check citizenship status for Medicaid recipients will be costly and an additional barrier to accessing this much needed program. In addition, it is unnecessary and continues the stereotype that immigrants are in this country to access social services, which we know to be false. Immigrants come to this country to create a better life for themselves and their families. They contribute to the social and economic fabric of our country every day.

Thank you for your efforts to protect immigrants and to save our country from a needless expense.

Warmly,

LARISA CASILLAS.

ASSOCIATION OF ASIAN PACIFIC
COMMUNITY HEALTH ORGANIZATIONS,
Oakland CA, February 10, 2006.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: The Association of Asian Pacific Community Health Organizations, AAPCHO, a national non-profit association of community health centers, is writing to support your efforts to repeal an amendment requiring individuals to provide evidence of citizenship when applying for Medicaid benefits.

We believe that these amendments, which are introduced in the Deficit Reduction Act of 2005, will not only raise the ranks of the uninsured, but more importantly, that they will leaves scores of our most vulnerable citizens without critically needed health care services.

As you well know, there are currently over 45 million people without health insurance, many of whom are Asian American, Native Hawaiian and Pacific Islander. Requiring Medicaid beneficiaries to provide a birth certificate or passport to prove their citizenship could lead to millions of low-income Americans either losing Medicaid coverage and becoming uninsured, or being delayed coverage for necessary medical care. At AAPCHO's member community health centers across the country, this regulation would instantly put the lives and health of a significant number of low-income adults, children, elderly, and disabled individuals at risk.

We thank you for continuing your fight to provide health care for our most vulnerable populations, and we appreciate your introduction of this important bill.

Sincerely,

JEFFREY B. CABALLERO, MPH,
Executive Director.

ALOHACARE,
Honolulu, HI, February 6, 2006.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: We applaud your concerns about the proposed changes in Medicaid. We wish to lend our support to the Amendment that you are proposing that will remove one of the most draconian aspects of the proposal in Section 6037 of the Budget Reconciliation Bill that will require that everyone who is applying for Medicaid, whether current or new, to provide proof of their citizenship.

The primary forms of documentation acceptable would be either a passport or a birth certificate presented in conjunction with proof of identity such as a drivers' license. For people who are naturalized citizens naturalization papers would be accepted. This essentially means that native-born citizens would have to produce birth certificates or passports.

The new requirements, which a recent study by the Inspector General of the Department of Health and Human Services shows to be unnecessary, would almost certainly create significant enrollment barriers to millions of low-income citizens who would otherwise meet all Medicaid eligibility requirements. Because of Hawaii's demographics we believe that we would be heavily impacted.

On July 1, 2006 these new requirements will apply to all applications or redeterminations of Medicaid eligibility that occurred after that date, without exceptions, even for people who are extremely old or have severe physical or mental impairments, such as Alzheimer's disease.

A major concern is that many people on Medicaid do not travel or have not had a need for a passport. Others no longer live near where they were born or have long since lost their birth certificate. Many of the elderly in Hawaii were born outside of hospitals or places where birth certificates were not commonly issued.

We anticipate that there will be significant administrative costs added to our already overburdened Medicaid programs. These provisions are absolutely unnecessary and will place an undue burden on the Medicaid beneficiary, to our entire Medicaid program, and ultimately to our entire state.

Please don't hesitate to contact us if we can be of any assistance to you in your efforts to protect the Medicaid beneficiaries in Hawaii.

Sincerely yours,

JOHN MCCOMAS,
Chief Executive Officer, AlohaCare.

Mr. OBAMA. Mr. President, as our Nation faces staggering healthcare costs, rising rates of chronic conditions, and a growing wage gap between the haves and the have-nots, we must acknowledge the vital importance of this Nation's safety net—the Medicaid program. The Medicaid program is the provider of healthcare for more than 50 million Americans—young and old, black and white, and the disabled.

As many of us would argue, and as stated by the President in this year's State of the Union Address, the government has a responsibility to help provide healthcare for the poor and the elderly. I ask you to question whether we meet that responsibility with section 6036 of the Deficit Reduction Act that requires citizenship documentation for individuals seeking Medicaid. In order for our country to have healthy children, a healthy workforce and healthy communities, we must not deter Americans from seeking medical care, and yet this provision would do just that.

Much of the public scrutiny on Medicaid spending has focused on the costs of providing care to undocumented immigrant populations. Some believe that requirements for documentation of citizenship will curtail alleged abuse of the Medicaid program by illegal immigrants. Yet, a study conducted by the HHS Inspector General failed to find any substantial evidence that illegal immigrants are fraudulently getting Medicaid coverage by claiming they are citizens, and he did not recommend any new requirements for documentation of citizenship.

If the requirement to document citizenship will not affect illegal immigrants, who are in fact not using the Medicaid program, than we must ask ourselves who will be affected by this requirement?

Let's think about the senior with Alzheimer's disease and the difficulty she experiences in remembering the name of her daughter, let alone where she placed her birth certificate. Let us think about the families who survived Hurricane Katrina, who lost their homes with all their possessions, including their passports. Let us think about the children being raised by cash-strapped grandparents and other relatives, who will incur additional costs for obtaining required documents.

About one out of every twelve U.S.-born adults, or 1.7 million Americans, who have incomes below $25,000 report that they do not have a U.S. passport or birth certificate in their possession. In addition, studies have shown that there are up to 2.9 million Medicaid-eligible children without such documentation.

These figures are even higher for other populations. While 5.7 percent of all adults at all income levels report they lack birth certificates or passports, this percentage rises to 7 percent for senior citizens age 65 or older, and 9 percent each for African American adults, adults without a high school diploma and adults living in rural areas. Notably, these figures do not include many other groups who would also experience difficulty in securing these documents, such as Native Americans born in home settings, nursing-home residents, Hurricane Katrina survivors, and homeless individuals. The documentation requirements in section 6036 would apply to all current beneficiaries and future applicants, allowing for no exceptions, even for those with serious mental or physical disabilities such as Alzheimer's disease or those who lack documents due to homelessness or a disaster such as Hurricane Katrina.

The costs to individuals applying for Medicaid coverage is matched by the overwhelming administrative costs associated with the documentation requirements. If birth certificates or passports are required for Medicaid enrollment, approximately 50 percent of

state officials have reported that they would have to hire additional personnel to handle the increased workload with significant, additional administrative and financial costs. The National Association for Public Health Statistics and Information Systems predicts a 50 percent increase in the volume of birth certificate requests if requirements for birth certificates or passports for Medicaid applications are imposed, resulting in significant delays in processing all birth certificate applications. State resources are already stretched too thin, and we should not impose additional and unnecessary burdens.

At a time when this administration is touting health care tax breaks, which will benefit those who need the least help, it is critical that members of Congress remember the worst off and the most vulnerable members of our society. Medicaid is their lifeline to a healthy and productive future, and we should not obstruct access to this program.

Senator AKAKA, Senator BINGAMAN and I have introduced this bill to eliminate requirements for citizenship documentation from Medicaid, and I urge all of my colleagues to support us in passing this critical act.

By Mr. LEVIN (for himself, Mr. DEWINE, Mr. DORGAN, and Mr. BOND):

S. 2306. A bill to amend the National Organ Transplant Act to clarify that kidney paired donation and kidney list donation do not involve the transfer of a human organ for valuable consideration; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEVIN. Mr. President, I am pleased today to be joined by Senators DEWINE, DORGAN and BOND in introducing legislation that will save lives by increasing the number of kidneys available for transplantation. Our bill addresses relatively new procedures that did not exist when the National Organ Transplant Act—NOTA—was passed more than two decades ago. No Federal dollars will be needed to implement it. More importantly, it will make it possible for thousands of people who wish to donate a kidney to a spouse, family member or friend, but find that they are medically incompatible, still to become living kidney donors.

Kidney paired donations involve two living donors and two recipients—the intended recipient of each donor is incompatible with the intended donor but compatible with the other donor in the arrangement. For example, person A wants to donate her kidney to her husband, person B, but cannot because of a biological incompatibility. Likewise, person C wants to donate to his wife, person D, and cannot because of a biological incompatibility. However, testing reveals that A and D are biologically compatible, and C and B are biologically compatible. Therefore, a paired kidney donation can be made whereby A donates to D and C donates to B. Every paired donation transplant avoids burdening the kidney waiting list and increases access to organs for all kidney transplant candidates.

Kidney list donations involve three individuals: a living donor; the recipient of the living donor's kidney, who is allocated the organ through the waiting list; and the donor's intended recipient who receives an allocation priority on the kidney waiting list. In this circumstance, a person intends to donate a kidney to a recipient but is found to be medically incompatible, and there are no other donor-recipient pairs available for a simultaneous paired donation. The person donates his or her kidney, and the kidney is allocated to a medically suitable patient on the national Organ Procurement and Transplantation Network—OPTN—waiting list according to OPTN organ allocation policy. The donor's originally intended recipient then receives allocation priority through the national system to receive a deceased donor kidney, thus fulfilling the donor's original intent to donate to a particular person. It is estimated that clearing the way for these procedures will not only save lives, it would save Medicare tens of millions of dollars each year in avoided costs for renal dialyses of these patients. By permitting living paired donations, this bill will also have the effect of increasing the number of kidneys available to patients already on the kidney waiting list.

The legislation we are introducing removes an unintended impediment to kidney donations by clarifying ambiguous language in Section 301 of the National Organ Transplant Act—NOTA. That section has been interpreted by a number of transplant centers to prohibit such donations. In Section 301 of NOTA, Congress prohibited the buying and selling of organs. Subsection (a), titled ''Prohibition of organ purchases,'' says: ''It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration. . . . '' The legislation we are introducing does not remove or alter any current provision of NOTA, but simply adds a line to Section 301 which states that paired donations do not violate it. When we originally enacted NOTA we expressly exempted several other actions from the valuable consideration provision, such as expressly permitting reimbursement of travel and subsistence costs for living donors, and for reimbursement of their lost wages. We did not know to include paired kidney donation events with these exceptions because they were not being performed then.

Congress surely never intended that the living donation arrangements that permit either a kidney paired donation or a kidney list donation be impeded by NOTA. Our bill simply makes that clear. A number of transplant professionals involved in these and other innovative living kidney donation arrangements have proceeded in the reasonable belief that these arrangements do not violate Section 301 of NOTA, and they are being performed in many states already. This legislation is necessary because some have questioned whether these paired donation situations might somehow involve valuable consideration in that the mutual promises to donate could be considered a thing of value being given in exchange for an organ. We do not believe that this is the case. Certainly, Congress never intended to impede paired donation when it outlawed buying and selling of organs.

There is no known opposition to this legislation. It is supported by numerous medical organizations, including the United Network for Organ Sharing, the American Society of Transplant Surgeons, the American Society of Transplantation, the National Kidney Foundation and the American Society of Pediatric Nephrology.

It is important that we make the intent of Congress explicit so that transplant centers which have hesitated to implement paired donation programs can feel free to do so; and in order that the Organ Procurement and Transplant Network, which is operated by UNOS under contract with the U.S. Department of Health and Human Services, may implement a national registry of pairs who need to find other compatible pairs so that their loved ones can get the transplant they so desperately need.

The experts in the field of organ donation and transplantation estimate that our legislation will result in well over 2,000 additional transplants annually and that Medicare would save millions in kidney dialysis costs. By its own estimate, Medicare spends more than $55,000 annually for each dialysis patient, which equates to more than $3.6 billion per year. Savings to Medicare due to removal of an additional 2,000 patients from the dialysis program through living kidney donation would exceed $110 million. Since the median waiting time for each patient is four years, removal of each patient translates into a total Medicare savings of $220,000.

It is our hope that the Senate will promptly act on this necessary legislation.

Mr. DEWINE. Mr. President, I rise today to join with my colleagues, Senators LEVIN, DORGAN, and BOND, to introduce the Living Kidney Organ Donation Clarification Act.

This important legislation would clarify Section 301 of the National Organ Transplant Act (NOTA). Section 301 makes it a felony ''for any person to knowingly acquire, receive or otherwise transfer any human organ for valuable consideration for use in organ transplantation.'' This provision simply makes it illegal to buy and sell human organs. The bill that Senator LEVIN and I are introducing would clarify that paired donations do not violate Section 301.

When NOTA was first enacted, the only living organ donations took place between a single biologically compatible living donor and recipient. In the past decade, a new type of living donation procedure has developed. It's called the paired organ donation. The best way to describe a paired donation is through an example: Patient A is on the waiting list for a kidney transplant. Various family and friends have offered to donate a kidney to Patient A, but none of the potential donors are compatible. However, one of Patient A's potential donors is compatible with Patient B, who is also on the waiting list for a kidney. Patient B has a potential donor who is compatible with Patient A. Patient A and B could exchange donors and both get transplants.

With the development of paired donations, concerns have arisen that the mutual promises to donate organs could be considered ''valuable consideration'' under Section 301 of NOTA. It is important to note that while paired donations were not conceived at the time NOTA was written over 20 years ago, they are in keeping with all of NOTA's provisions and protections and should be permitted. Paired donors may not receive a monetary payment, except for reimbursement for expenses. I don't think that Congress would have intended to prohibit the practice of paired donations with the enactment of NOTA.

The benefits of paired donations are tremendous. Successful kidney transplants eliminate the need for dialysis for the recipient, as well as decrease costs to Medicare. And, the practice of paired donations has the potential to increase the number of living donor transplants dramatically, as there are a large number of potential living donors who are biologically incompatible with their intended recipients.

My own State of Ohio has the first state-sponsored program that arranges paired kidney donations. There have been at least four paired kidney donations in Ohio during the last two years arranged through the Paired Donation Kidney Consortium. With over 62,000 men, women, and children waiting for a kidney donation, we cannot afford to turn our back on the paired donation procedure.

That is why it is critically important that Section 301 of NOTA be clarified to permit these donations. Clarification of the intent of Congress would encourage transplant centers throughout the country to implement their own paired donation programs. It also would enable the Organ Procurement and Transplant Network to create a national list of pairs of incompatible donors so that as many recipients can be matched up as possible.

I encourage my colleagues to join me in cosponsoring this bill.

Mr. DORGAN. Mr. President, I am pleased to join Senators LEVIN, DEWINE and BOND to introduce the Kidney Transplant Clarification Act of 2006. This legislation will help save lives by increasing the number of kidney donations made by living donors.

There are currently 90,608 people in the United States who are on the national organ transplant waiting list. More than two-thirds of those on the waiting list suffer from end stage renal disease and are in need of a kidney transplant. Unfortunately, the number of people on the waiting list continues to grow far faster than the number of organ donors. In North Dakota alone, there are currently 91 patients who are waiting for a kidney transplant.

The good news is that patients with end stage renal disease who require a kidney transplant no longer need to wait for a kidney from a deceased donor or from a blood relative. Advances in medical science now make it possible for friends and spouses to donate a kidney to a patient in need. Of the 16,004 kidney transplants in 2004, 6,647 were from living donors.

The bad news is outdated Federal laws inappropriately stand in the way of widely adopting several innovative approaches that would increase the number of kidney donations from the living.

One of these strategies is called a paired kidney donation. Here is how it works: Joe wants to donate a kidney to his wife Kathleen but can't because of incompatibility. Likewise, Suzy wants to donate a kidney to her husband Scott but can't because of incompatibility. A paired donation helps match up these couples so Joe can donate a kidney to Scott and Suzy can donate a kidney to Kathleen.

The other approach is called a kidney list donation. Here is how it works: Rebecca wants to donate a kidney to her husband Grant but can't because of incompatibility. In this case, she decides to donate a kidney to someone who is already on the national waiting list. Once the donation is made, Grant is added to the waiting list but is given allocation priority for a kidney that becomes available in the future.

The Kidney Transplant Clarification Act will clarify that paired and list kidney donations are allowed under the National Organ Transplant Act, removing a barrier that has prevented more kidney donations from living donors from occurring.

The National Organ Transplant Act, which was enacted in 1984, prohibits any person to acquire, receive or donate any human organ for anything of value. The purpose of this law is to prohibit the buying and selling of human organs. I agree with this law. The last thing that we want to do is sanction organ trafficking. Yet, when this law was enacted, paired and list kidney donations did not exist. It is important that we clarify that these innovative strategies to increase the number of kidney donations from living donors are allowed under current law.

The Kidney Transplant Clarification Act will not only save lives, it will save the federal government and taxpayers money. Patients with end stage renal disease require dialysis, which is covered by Medicare. According to the Centers for Medicare and Medicaid Services, Medicare spends about $55,000 per patient per year for dialysis. On average, patients with end stage renal disease wait 4 years before receiving a kidney transplant. This means that every kidney donation made from a living donor has the potential to reduce the number of people on the waiting list and save the government as much as $220,000.

Mr. President, I encourage my colleagues to support this legislation.

By Mr. HARKIN (for himself, Mr. ENZI, and Mr. THOMAS):

S. 2307. A bill to enhance fair and open competition in the production and sale of agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today I, along with Mr. ENZI and Mr. THOMAS are introducing the ''Competitive and Fair Agricultural Markets Act of 2006.'' This legislation seeks to even the playing field for agricultural producers by strengthening and clarifying the Packers and Stockyards Act of 1921 and the Agricultural Fair Practices Act of 1967 and requiring better enforcement of both laws by USDA.

A quick lesson in agricultural history makes clear that producers are no stranger to a marketplace often tilted against them. Roughly 100 years ago, rapid consolidation and collusive practices by meatpacking and railroad and other companies prompted Congress to eventually pass several new laws designed to ensure a competitive and fair marketplace for agricultural producers. Because earlier legislation was seen as lacking to protect livestock and poultry producers. Congress passed the Packers and Stockyards Act in 1921 to prohibit packers and processors from engaging in unfair, unjustly discriminatory, or deceptive practices.

Consolidation is happening in all sectors of agriculture and having a negative effect on producers and consumers across the Nation. Consolidation in itself is not a violation of the Packers and Stockyards Act, but when some entities become larger and more powerful that makes enforcement of the Packers and Stockyards Act absolutely critical for independent livestock and poultry producers. The statistics speak for themselves. Today, only four firms control 84 percent of the procurement of cattle and 64 percent of the procurement of hogs. Economists have stated that when four firms control over 40 percent of the industry, marketplace competitiveness begins to decline. Taken together with fewer buyers of livestock, highly integrated firms can exert tremendous power over the industry.

The dramatic changes in the marketplace are alarming, and I have expressed my concerns to USDA on several occasions—but they showed hardly

any concern and even less action. The Grain Inspection, Packers and Stockyards Administration (GIPSA) at USDA has the responsibility to enforce the Packers and Stockyards Act. For years, I have had doubts whether GIPSA was effectively enforcing this important law. Concerned by the lack of action by GIPSA, I asked USDA's Inspector General to investigate this matter. Recently, the Inspector General issued a report on GIPSA that confirmed these concerns. The report described widespread inaction, agency management actively blocking employees from conducting investigations into anti-competitive behavior and a scheme to cover up the lack of enforcement by inflating the reported number of investigations conducted.

The Inspector General's troubling findings reveal gross mismanagement by GIPSA. This failure is not just at GIPSA but includes high-level officials at USDA who did nothing to identify and correct problems within GIPSA. Today, the legislation I introduce will reorganize the structure in how USDA enforces the Packers and Stockyards Act. This legislation will create an office of special counsel for competition matters at USDA. This office will oversee more effective enforcement of the Packers and Stockyards Act and other laws and focus attention on competition issues at USDA by removing unnecessary layers of bureaucracy. The new special counsel on competition would be appointed by the President with advice and consent from the U.S. Senate. Some would argue that this reorganization is not needed, especially given that USDA has agreed to make the necessary changes recommended by the recent Inspector General's report. However, what is important to remember here is that USDA has a long history of agreeing to making changes and then never following through with them. The Inspector General made recommendations to improve competition investigations in 1997 and the Government Accountability Office made similar recommendations again in 2000. It is 2006, yet those recommendations were never implemented and GIPSA is in complete disarray. In addition, no one above the level of deputy administrator at GIPSA seemed to have any idea that any problems were going on, despite the fact I was sending letters to the Secretary of Agriculture pointing out that USDA was failing to enforce the law. A change is needed.

In addition to the creation of a special counsel, this legislation also makes many important clarifications to the Packers and Stockyards Act so that producers need not prove an impact on competition in the market in order to prevail in cases involving unfair or deceptive practices. Court rulings have created many hoops for producers to go through in order to succeed in cases where they were treated unfairly. For example, the United States Eleventh Circuit Court of Appeals ruled that a poultry grower operation failed to prove how its case involving an unfair termination of its contract adversely affected competition. The court indicated that the grower had to prove that their unfair treatment affected competition in the relevant market. That is very difficult to prove and was never the intent of the Packers and Stockyards Act.

This legislation also makes modifications to the Packers and Stockyards Act so that poultry growers have the same enforcement protections by USDA as livestock. Currently, it is unlawful for a livestock packer or live poultry dealer to engage in any unfair, unjustly discriminatory or deceptive practice, but USDA does not have the authority to enforce and correct such problems because the enforcement section of the law is absent of any reference to poultry. This important statutory change is long overdue. In addition, to better reflect the integrated nature of the poultry industry, this legislation also ensures that protections under the law extend to all poultry growers, such as breeder hen and pullet operations, not just those who raise broilers.

The Agricultural Fair Practices Act of 1967 was passed by Congress to ensure that producers are allowed to join together as an association to strengthen their position in the marketplace without being discriminated against by handlers. Unfortunately, this Act was passed with a clause that essentially abolishes the actual intent of the law. The Act states that ''nothing in this Act shall prevent handlers and producers from selecting their customers'' and it also states that it does not ''require a handler to deal with an association of producers.'' This clause in effect allows handlers to think of any reason possible under the sun not to do business with certain producers, as long as the stated reason is not because they belong to an association. Currently, the Agricultural Fair Practices Act focuses on the right of producers to join together without discrimination for having done so.

I propose to expand the Agricultural Fair Practices Act to provide new needed protections for agricultural contracts. As I have mentioned earlier, consolidation in all sectors of agriculture is reducing the number of buyers of commodities and for the very few who are left, many require contracts to conduct business. Some producers have little or no choice but to contract with a firm with questionable practices or face leaving the industry they have known for their whole lives.

This amendment to the Agricultural Fair Practices Act requires that contracts be spelled out in clear language what is required by the producer. This legislation prohibits confidentiality clauses by giving producers the ability to share it with family members or a lawyer to help them make an informed decision on whether or not to sign it. It prevents companies from prematurely terminating contracts without notice when producers have made large capital investments as a condition of signing the contract. And it only allows mandatory arbitration after a dispute arises and both parties agree to it in writing. Producers should not be forced to sign contracts with arbitration clauses thereby preventing them from seeking legal remedy in the courts.

History is repeating itself—in fact consolidation in the industry is even worse today. Producers deserve to have a fair and evenhanded market in which to conduct business. They should not be at the mercy of unfair and heavily consolidated markets that spurred Congress to enact legislative reforms, such as the Packers and Stockyards Act, years ago. This legislation won't be able to turn back the clock, but it will strengthen laws and enforcement of them so that markets operate more fairly.

By Mr. SPECTER (for himself, Mr. BYRD, Mr. COCHRAN, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, and Mr. SANTORUM):

S. 2308. A bill to amend the Federal Mine Safety and Health Act of 1977 to improve mine safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, today, I am introducing legislation to overhaul the Mine Safety and Health Act to make this Nation's mines the safest in the world. The recent events at the Sago mine in Tallmansville and the Alma Mine in Mellville, WV, and the death of a miner of Pikeville, KY, demonstrates that improvements need to be made in all areas of mine safety. The West Virginia disasters remind us of the one at the Pennsylvania Quecreek mine where on July 24, 2002, a mining machine broke through an abandoned section of the mine, unleashing 60 million gallons of groundwater and trapping 9 miners. Some 78 hours after the accident, all 9 miners were pulled safely from the mine. Unfortunately, the 12 men at the Sago mine were not as lucky.

A recent article in the Pittsburgh Post Gazette stated: ''The rest of the world will move on. In the weeks and months to come, there will be other disasters, other wars, other political scandals. But for the families of the 12 men who died inside the mine in Tallmansville, WV, for the one who survived, for their relatives and friends, for the investigators searching for the cause of the mine explosion, for the people of these coal-rich hills 100 miles south of Pittsburgh, Sago will be a daily litany. Some questions about the January 2 accident may never be answered.''

Mining is a dangerous business. There have already been 4 coal mine accidents since the January 2, 2006, Sago disaster. One on January 10, when a miner was killed in Kentucky after a mine roof cave-in, another on January 19, when 2 miners became trapped at

the Alma mine in Melville, West Virginia, and two more accidents on February 1, 2006, where a miner was killed at an underground mine when a wall support popped loose, and a second fatality when a bulldozer struck a gas line at a surface mine sparking a fire and killing the operator. Last year, the safest year on record, there were 22 fatalities in underground coal mines, in 20 separate accidents with 4 men killed in my home State of Pennsylvania; 3 in West Virginia; 8 in Kentucky and 7 in other States.

The Sago mine had 208 citations, orders and safeguards issued against it in 2005, with nearly half of these violations cited as ''significant and substantial''. Eighteen of the violations were cited as ''withdrawal orders'', which shut down activity in specific areas of the mine until problems were corrected.

While the budget for mine safety and health has increased by 42 percent over the past 10 years, these increases barely keep pace with inflationary costs. This has forced the agency to reduce staffing by 183 positions over that same time period. In FY 2006, the final appropriation was $2.8 million below the budget request and $1.4 million below the FY 2005 appropriation due to the 1 percent across-the-board reduction that was required to stay within the budget resolution ceiling.

I chaired a hearing on January 23, 2006, that included testimony from Federal mining officials and mine safety experts from labor, business, and academia, which resulted in many of the proposals in my legislation.

Specifically, the legislation that I am introducing today amends the Mine Safety and Health Act by requiring: 1. MSHA to release the internal review and accident investigation reports to the House and Senate authorizing and appropriating committees, within 30 days of completing their investigation of a mine disaster. 2. MSHA to publish formal rules for conducting accident investigations and hearing procedures. 3. That fines for a flagrant violation be increased from $60,000 to $500,000; defining that violation as a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a standard that substantially and proximately caused, or reasonably could have been expected to cause death or serious bodily injury; and prohibiting the reduction of penalties by an administrative law judge for any violation termed as ''flagrant or habitual''. 4. That no fine less than $10,000 can be assessed for a safety violation that could cause serious illness or injury, and no less than $20,000 can be assessed to a habitual violator for a violation that could significantly and substantially contribute to a safety or health hazard. 5. MSHA inspectors to follow-up on all violations no later than 24 hours. 6. MSHA to ensure that the ventilation and roof control plans are reviewed on a quarterly basis. 7. That mining companies be subject to a fine of no less than $100,000 if MSHA officials are not informed of a disaster within 15 minutes of an accident. The MSHA Director may waive the penalty if it is found that failure to give notice was caused by circumstances outside the control of the mine operator. 8. That mine representatives not be present during accident investigation interviews with miners. 9. MSHA to train all mine personnel in the proper usage of wireless devices and do refresher training courses during each calendar year. 10. That rescue teams do training exercises twice a year and conduct emergency rescue drills at operating mines—on a surprise, unannounced basis. 11. That communications between rescue teams be strictly confined between the command center and the team members. 12. MSHA to have a central communications Emergency Call Center—which includes manned telephone operation with all calls answered by a live operator, 24 hours a day, seven days a week. This provision will apply to all types of mining operations. To assist in implementing and operating the Emergency Call Center, MSHA shall—on a quarterly basis—provide the Center with a mine emergency contact list. 13. That wireless Emergency Tracking Devices be made available to each miner by the operator which will enable rescuers to locate miners in case of an accident. 14. That wireless text messaging or other wireless communications devices be made by the operator and shall be worn by underground personnel to enable rescuers or mine operators to communicate with underground personnel. 15. MSHA to place secondary telephone lines in a separate entry in order to increase the likelihood that communications could be maintained between miners and those on the surface in the event of an emergency. 16. That strategically placed oxygen stations be provided to miners with four days of oxygen—in the section of the mine where miners are working. 17. That fines will be increased from $5,500 to $55,000 for operators who fail to correct a violation. 18. That an operator who knowingly exposes workers to situations likely to cause death or serious bodily injury or willfully violates a mandatory health or safety standard will have fines increased from $25,000 to $250,000. 19. That if any person gives advance notice of the mine inspection the fine will be increased from not more than $1,000 to not more than $20,000. 20. That if any person makes a false statement regarding complying with the MSHA Act the fine will be increased from $10,000 to $100,000.

All metal, non-metal and coal mines as defined in section 3 of the Act, shall be subject to a user fee of $100.00 for each penalty assessed, to be collected by MSHA and deposited into its account to augment funding above fiscal year 2006 enacted appropriations, for the following activities: reimburse operators for the costs of training, research and development, rescue teams, safe rooms, and other miner safety supplies and equipment, and supplement MSHA funding of technical support, educational policy and development, and program evaluation and information activities.

These amendments that I have proposed to the Mine Safety and Health Act will improve the conditions in this Nation's mines. The provisions set forth in this legislation will provide increased protections for miners; put in place new equipment and technology to locate miners working underground; increase their oxygen supplies and speed up rescue operations so that the tragedy of the last few months will be not be repeated. I ask that you join me in cosponsoring this legislation.

By Mr. HARKIN:

S. 2309. A bill to amend the Internal Revenue Code of 1986 to modify the definition of agri-biodiesel; to the Committee on Finance.

Mr. HARKIN. Mr. President, I am introducing today a bill of modest scope but of great importance. The legislation would modify the existing Federal biodiesel tax credit in two ways—to make clear that only biodiesel produced from feedstocks listed, such as soy oil, are eligible and also to ensure the credit is available only for fuel of the highest quality.

Biodiesel is a home-grown renewable fuel that helps wean our country off of its oil addiction, creates economic growth and jobs in rural areas while enhancing our environment and public health.

In my State of Iowa, which leads the Nation in biodiesel production, there are three plants in operation and several more coming on-line. Each plant bolsters farm income, provides good jobs to surrounding communities and additional tax revenues to municipalities.

The biodiesel tax credit was enacted into law just a few years ago. It was extended through 2008 in the energy bill. I have been a leading proponent of the tax credit since day one. However, the tax credit has recently subsidized biodiesel production from outside the U.S. While I am certainly not averse to trade, and generally believe that it is a good thing for renewable energy to supplant fossil fuels wherever it comes from, the practice does not enhance domestic energy security, a goal which the President endorsed in his recent State of the Union address.

It would be terribly unfortunate if the Federal Government, which has sought to bolster our domestic energy security and environmental quality through the development of renewable fuels, suddenly found itself unintentionally undermining that goal. Congress intended the biodiesel tax credit to go to support production from a finite set of feedstocks. We are now off-track given how the Internal Revenue Service has been interpreting the law. The agency has improperly determined that biodiesel produced from a variety

of feedstocks, even those not listed in statute, are eligible for the credit.

So I have put together a bill, as I said, that is modest in scope. The bill fixes the tax credit language by making biodiesel made from any source not listed in the statute ineligible for the tax credit.

In addition, I have added a performance standard to help ensure that only high-quality biodiesel may receive tax benefits. There have been reports of late that some biodiesel doesn't perform as well as it should in certain situations, and this provision should help address that problem. The performance standard set forth in the bill specifies that only fuel listed with a cloud point of 45 degrees or less is eligible for the credit. Cloud point measures the point at which a fuel such as biodiesel will cloud or gel due to cold temperatures. My understanding is that cloud point is generally recognized as the best quality indicator for satisfactory performance.

The bill as crafted should not interfere in any way with our international trade obligations under the World Trade Organization (WTO) rules since it does not differentiate between oilseeds of U.S. and foreign origin. This view is shared by several trade experts consulted by my staff.

I stand ready to work with my colleagues on the Senate Finance Committee, which has direct jurisdiction over this issue, to move this legislation forward.

In sum, I think this legislation is necessary to promote domestic energy security, ensure appropriate performance, and do so in a way that is compliant with our international trading obligations.

By Mr. WARNER:

S. 2310. A bill to repeal the requirement for 12 operational aircraft carriers within the Navy; to the Committee on Armed Services.

Mr. WARNER. Mr. President, I rise today to introduce an important piece of legislation related to our Navy and National Security.

The Department of Defense has submitted its report to the Congress on the Quadrennial Defense Review for 2005 and, as we are all well aware, in the 4 years since the previous Quadrennial Defense Review.

The global war on terror has dramatically broadened the demands on our naval combat forces. In response, the Navy has implemented fundamental changes to fleet maintenance and deployment practices that have increased total force availability, and it has fielded advances in ship systems, aircraft, and precision weapons that have provided appreciably greater combat power than 4 years ago.

These commendable efforts reflect the superb skills, resolve, and dedication of the men and women of our Armed Forces, as they adapt to the added dimension of international terror while providing for the security of our Nation.

However, we must consider that the Navy is at its smallest size in decades, and the threat of emerging naval powers superimposed upon the Navy's broader mission of maintaining global maritime security, requires that we modernize and expand our Navy.

The longer view dictated by naval force structure planning requires that we invest today to ensure maritime dominance 15 years and further in the future; investment to modernize our aircraft carrier force with 21st century capabilities, to increase our expeditionary capability, to maintain our undersea superiority, and to develop the ability to penetrate the littorals with the same command we possess today in the open seas.

The 2005 Quadrennial Defense Review impresses these critical requirements against the backdrop of the national defense strategy and concludes that the Navy must build a larger fleet. The Navy, in its evaluation of the future threat, has determined that a force level of 313 ships, 32 ships greater than today's operational fleet, is required to maintain decisive maritime superiority.

These findings are in whole agreement with previous concerns raised by Congress as the rate of shipbuilding declined over the past 15 years. Now we must finance this critical modernization, and in doing so we must strike an affordable balance between existing and future force structure.

The centerpiece of the Navy's force structure is the carrier strike group, and the evaluation of current and future aircraft carrier capabilities by the Quadrennial Defense Review has concluded that 11 carrier strike groups provide the decisively superior combat capability required by the national defense strategy. Carefully considering this conclusion, we must weigh the risk of reducing the naval force from 12 to 11 aircraft carriers against the risk of failing to modernize the naval force.

Maintaining 12 aircraft carriers would require extending the service life and continuing to operate the USS *John F. Kennedy* (CV–67). The compelling reality is that today the 38-year-old USS *John F. Kennedy* (CV–67) is not deployable without a significant investment of resources. Recognizing the great complexity and risks inherent to naval aviation, there are real concerns regarding the ability to maintain the *Kennedy* in an operationally safe condition for our sailors at sea. In the final assessment, the costs to extend the service life and to make the necessary investments to deploy this aging aircraft carrier in the future prove prohibitive when measured against the critical need to invest in modernizing the carrier force, the submarine force, and the surface combatant force.

We in the Congress have an obligation to ensure that our brave men and women in uniform are armed with the right capability when and where called upon to perform their mission in defense of freedom around the world. Previously, we have questioned the steady decline in naval force structure, raising concerns with regard to long term impacts on operations, force readiness, and the viability of the industrial base that we rely upon to build our Nation's Navy. Accordingly, I am encouraged by and strongly endorse the Navy's vision for a larger, modernized fleet, sized and shaped to remain the world's dominant seapower through the 21st century.

However, to achieve this expansion while managing limited resources, it is necessary to retire the aging conventional carriers that have served this country for so long. To this end, Mr. President, I offer this legislation which would amend section 5062 of Title 10, United States Code to eliminate the requirement for the naval combat forces of the Navy to include not less than 12 operational aircraft carriers.

By Ms. COLLINS:

S. 2311. A bill to establish a demonstration project to develop a national network of economically sustainable transportation providers and qualified transportation providers, to provide transportation services to older individuals, and individuals who are blind, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, in recent years, we have become increasingly aware of the great challenges facing our Nation as our population ages. While much discussion revolves around health care, social security, and pension systems, there is another daunting challenge that is rarely addressed in a comprehensive way.

I am referring to the challenge of senior transportation.

We Americans love our automobiles. From the time most of us were old enough to drive, we have been behind the wheel. Cars mean freedom—not in some grand philosophical sense—but in the real and practical sense that matters to us in our everyday lives. Having a car, and being able to drive it, means the freedom to go where we want, when we want.

But as we age, we will find it harder and harder to use the freedom given to us by automobiles. Because as we age, our abilities decline, and driving becomes less and less simple. And then the day comes when we wonder whether we should keep driving at all, and if we don't, how we will get about our daily lives.

That day has already come for millions of our senior citizens.

All around the Nation, older Americans are struggling to stay active and independent while their ability to drive themselves declines. A few live in communities with well-developed public transportation services geared to our senior citizens, but most do not. Many seniors drive as long as they can, perhaps longer than they think they should, simply because they feel they have no alternative.

That is why I am today introducing the Older Americans Sustainable Mobility Act of 2006. Despite its rather

awkward name, this legislation has a great purpose. It would create a 5-year demonstration project, overseen by the Administration on Aging, to establish a national, nonprofit senior transportation network to help provide some transportation alternatives to our aging population. The goal of this network is to build upon creative, successful models that are already showing how the transportation needs of older Americans can be met in a manner that is economically sustainable.

This last point is important. Senior transportation is a complex and expensive logistical problem. We cannot expect to address this problem by creating a brand new, expansive, Federal Government program that requires the commitment of vast sums year after year in order to succeed. We can't afford that, and that really isn't what older Americans want.

What older Americans want is what most of us have and take for granted—the freedom and mobility that our automobiles provide.

My legislation would build upon models that have demonstrated how senior citizens can stay active and mobile even after they stop driving. One such model is ITNAmerica, which has been operating in my home State of Maine since the mid-1990s and has since branched out to communities across the Nation. ITNAmerica uses private automobiles to provide rides to senior citizens whenever they want, almost like a taxi service. Riders open an account which is automatically charged when the service is used. Riders can get credits for rides through volunteer services, through donations—and this is what I think is most intriguing—by donating their private car to the program after they have decided that they should no longer drive.

Kathy Freund, the founder of ITNAmerica, sees this as a way of taking something people see as a liability, and turning it into an asset. Through Kathy's extraordinary vision and hard work, ITNAmerica has developed a model that works because it allows older Americans to make the transition away from driving themselves without asking them to sacrifice their independence, or to learn at an older age how to navigate public transportation systems that may simply be inappropriate for their needs, or widely unavailable in many parts of the country. They can still be mobile, they can still go where they want and when they want, and they can go by car.

Senior citizens will often keep their vehicles long after they have stopped driving. I am sure you have seen these vehicles in your State as I have in mine. You will see them sitting in driveways—unattended and poorly maintained, sometimes not driven for many months at a time. In this form, these cars are ''wasting'' assets. But ITNAmerica has found that the value of these cars can be unlocked by allowing seniors to exchange them for rides. That is why my bill calls for the creation of a once-in-a-lifetime tax benefit for seniors who exchange their cars for rides, valued at the amount of the ride-credit they are provided.

One of my senior citizen constituents, June Snow from Falmouth, ME, has been using the system that I described—the ITNAmerica system—since 1995, when her eyesight began to fail. At first, she used the program only to get into the city, Portland, and only after dark, when she found it more difficult to drive. But more recently she has traded her car for rides, and now she depends on the system to go everywhere she needs to go. She finds that the program allows her to get around town, to run errands, and do the things she has to do and wants to do without worrying about whether she will be able to get safely from one place to another. She told me: It's not like riding a bus, where you have to work with their schedules, and they won't stop and help you with your groceries. They won't make you get your feet wet walking through the snow to the bus stop.

But what she loves most is the personal attention she gets from the drivers, most of whom are volunteers. ''They help you to the door, and they even carry your bundles and put them in the trunk,'' she says.

My bill also creates a limited-time matching grant program to help communities establish sustainable transportation alternatives for seniors as part of a national network. Programs that wish to compete for these matching grants must be able to show that they can become self-sustaining after 5 years, and that they can operate after that period without reliance on public funds. So what I am proposing, is that we just provide some seed money as a catalyst, to get these programs going, with the full expectation—indeed the requirement—that they become self-sustaining without any public funds after the initial period. My bill also provides smaller grants to help transportation providers acquire the technology they need to connect to this network, and grants to encourage efforts to get the baby boomers more involved in supporting transportation alternatives in their communities. The total cost of these grant programs would be only $25 million over the full 5 year period. Then the program sunsets, and these wonderful transportation programs that would be created all over the country would be sustainable on their own without public funding.

The challenge of providing transportation alternatives to our Nation's senior citizens is literally growing by the day. The bill I am offering is one step toward a reasonable, practical, solution to this important challenge. I think all of us know of neighbors and family members who reach their senior years and really shouldn't be driving anymore but are very reluctant to give up those car keys because there are simply no workable alternatives for them. This bill would provide those alternatives, and I urge my colleagues to support the legislation.

By Mr. DURBIN:

S. 2312. A bill to require the Secretary of Health and Human Services to change the numerical identifier used to identify Medicare beneficiaries under the Medicare program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Number Protection Act of 2006''.

SEC. 2. REQUIRING THE SECRETARY OF HEALTH AND HUMAN SERVICES TO CHANGE THE NUMERICAL IDENTIFIER USED TO IDENTIFY MEDICARE BENEFICIARIES UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement procedures to change the numerical identifier used to identify individuals entitled to benefits under part A of title XVIII of the Social Security Act or enrolled under part B of such title so that such an individual's social security account number is not displayed on the identification card issued to the individual under the Medicare program under such title or on any explanation of Medicare benefits mailed to the individual.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

By Mr. DURBIN (for himself and Mr. DAYTON):

S. 2313. A bill to amend title XVII of the Social Security Act to permit medicare beneficiaries enrolled in prescription drug plans and MA–PD plans that change their formalities or increase drug prices to enroll in other plans; to the Committee on Finance.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Drug Honest Pricing Act of 2006''.

SEC. 2. PERMITTING MEDICARE BENEFICIARIES ENROLLED IN PRESCRIPTION DRUG PLANS AND MA–PD PLANS THAT CHANGE THEIR FORMULARIES OR INCREASE DRUG PRICES TO ENROLL IN OTHER PLANS.

(a) SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—Section 1860D–1(b)(3) of the Social Security Act (42 U.S.C. 1395w–101(b)(3)) is amended by adding at the end the following new subparagraphs:

''(F) ENROLLMENT UNDER PLANS THAT CHANGE THEIR FORMULARIES.—In the case of a

part D eligible individual who is enrolled in a prescription drug plan that uses a formulary, if the plan removes a covered part D drug from its formulary or changes the preferred or tiered cost-sharing status of such a drug and the individual is adversely affected by such change, there shall be a 60-day special enrollment period for the individual beginning on the date on which the individual receives a notice of such removal or change.

''(G) ENROLLMENT UNDER PLANS THAT INCREASE NEGOTIATED PRICES.—In the case of a part D eligible individual who is enrolled in a prescription drug plan in which the negotiated price used for payment for any covered part D drug increases by 10 percent or more from the negotiated price used for payment for the drug as of January 1 of the year (as disclosed to the Secretary pursuant to section 1860D–2(d)(4)(A)).''.

(2) INFORMING BENEFICIARIES OF NEGOTIATED PRICES.—Section 1860D–2(d) of the Social Security Act (42 U.S.C. 1395w–102(d)) is amended by adding at the end the following new paragraph:

''(4) INFORMING BENEFICIARIES OF NEGOTIATED PRICES.—

''(A) REQUIRING PLANS TO DISCLOSE NEGOTIATED PRICES TO THE SECRETARY.—Not later than November 8 of each year (beginning with 2006), each sponsor of a prescription drug plan shall disclose to the Secretary (in a manner specified by the Secretary) the negotiated price used for payment for each covered part D drug covered under the plan that will apply under the plan on January 1 of the subsequent year.

''(B) SECRETARY TO MAKE NEGOTIATED PRICES AVAILABLE ON THE CMS WEBSITE.—Not later than November 15 of each year (beginning with 2006), the Secretary shall make information disclosed under subparagraph (A) available to the public through the Internet website of the Centers for Medicare & Medicaid Services.

''(C) REQUIRING PLANS TO INFORM BENEFICIARIES OF JANUARY 1 NEGOTIATED PRICE.—Not later than January 10 of each year (beginning with 2007), each sponsor of a prescription drug plan shall appropriately inform (as determined by the Secretary) part D eligible individuals enrolled in the plan for the year of the negotiated price used for payment for each covered part D drug that is covered under the plan that was disclosed to the Secretary under subparagraph (A).''.

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to carry out the amendments made by this section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2007.

By Mr. BURNS:

S. 2315. A bill to amend the Public Health Service Act to establish a federally-supported education and awareness campaign for the prevention of methamphetamine use; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURNS. Mr. President, I rise today to introduce legislation to curb meth use in the United States. We have often been told that an ounce of prevention is worth a pound of cure, but this adage is particularly true with methamphetamine addiction. But the problems associated with meth do not end with a one-time high-they are only just beginning. All too often, we hear horror stories about the change in the brain's chemical composition that results from meth use. There's no guarantee that a meth user's brain will be the same after they use meth just once.

The impact of meth, both emotionally and physically, is significant. The individuals that use meth are also not the only ones harmed by this devastating drug—meth problems manifest themselves in family relationships, place strain on treatment facilities and public health needs, and the community. at large must bear the costs associated with meth, such as drug-endangered children and the remediation of meth labs. The most efficient use of Federal dollars should be directed toward prevention—and that is why I have introduced legislation today.

With consideration of the PATRIOT Act and the inclusion of the Combat Meth Act provisions which I fully support, I strongly believe that an emphasis on prevention is essential, and the discussion today is a topical one. We must change the attitude of the consumer. So long as there is a demand for meth, there will always be willing sellers.

My legislation would allow communities to apply for assistance for any campaign which would have a demonstrated reduction of meth use. A 100 percent match is required of all applicants to ensure that the community organization or local government applying for funds has a stake in the outcome. However, my legislation also recognizes the difficulty this matching requirement may have on rural areas, or Indian reservations, which typically have a high level of meth use, but lack the necessary resources. For these applicants, the match will be cut in half.

I hope my colleagues will join me in helping to prevent this public health crisis called meth from becoming any worse. I have seen the Senate's Anti-Meth Caucus start with six members when I created it last year, and membership now stands at over 30 members. In the Senate, we realize the serious nature and scope of the problem facing our States—now it's time to act.

By Mr. MENENDEZ (for himself and Mr. LAUTENBERG):

S. 2316. A bill to amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf in the Mid-Atlantic and North Atlantic planning areas; to the Committee on Energy and Natural Resources.

Mr. MENENDEZ. Mr. President, I rise today with my colleague from New Jersey, Senator LAUTENBERG, to introduce legislation designed to protect our State's coastline from the threat of encroaching oil and gas development. The Clean Ocean and Safe Tourism Anti-Drilling Act, or COAST Anti-Drilling Act, bans oil and gas drilling off the New Jersey shore, and in the entire Atlantic seaboard from Maine to North Carolina.

This bill is necessary because of last week's publication of the Minerals Management Service's, MMS, draft 5-year plan for the Outer Continental Shelf, which proposes to open the waters off the coast of Virginia to oil and gas leasing in 2011. In some places, this means drilling less than 75 miles off the coast of New Jersey. While the MMS may believe you can assign a part of the ocean as belonging to a certain state, oil spills will not respect those boundaries. Seventy-five miles is more than close enough for a spill to affect the New Jersey shore, potentially devastating our beaches and the state's critical tourist economy.

According to the New Jersey Commerce and Economic Growth Commission, tourism is a $22 billion dollar industry in the State, responsible for more than 430,000 jobs, over 10 percent of the total jobs in the State. To risk all of that, and the coastal economies of every State along the Atlantic coast, for what is estimated to be a fairly small potential reserve of oil and gas is simply not worth it.

The MMS recently released new estimates for recoverable oil and gas in the outer continental shelf, and the entire Atlantic seaboard adds up to less than 6 percent of the nation's estimated OCS gas reserves, and less than 3 percent of the oil reserves—barely a 6-month supply. And that's from Maine to Florida, so the area off any individual State will be a small fraction of that.

This is not an issue of trying to lower the price of natural gas, or making the United States more energy independent. This is about protecting New Jersey's environment and economy. This is about protecting the coastline where New Jersey families live, work, and play. I look forward to working with my colleagues from neighboring States, and from States around the country, to ensure that our beaches are protected for generations to come.

By Mr. BAUCUS (for himself, Mr. HATCH, and Ms. STABENOW):

S. 2327. A bill to amend the Trade Act of 1974 to require the United States Trade Representative to identify trade enforcement priorities and to take action with respect to priority foreign country trade practices, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today I—along with Senator HATCH and Senator STABENOW—introduce the Trade Competitiveness Act of 2006, a bill that will provide the administration with additional tools, resources, and accountability to enforce international trade agreements.

This bill is the first in a comprehensive package of legislation that I will introduce during the next few weeks to bolster American competitiveness.

The United States is still a world leader in almost every way imaginable. But we need a bold agenda to maintain America's economic leadership and preserve high-wage American jobs here at home.

I just got back from China and India, and that trip only underscored the challenges we face in the global economy. To rise to this challenge, my bills

will address trade and all other keystones of America's competitiveness—education, energy, health, savings, research, and tax policy.

But today, we start with international trade. Trade and investment in international markets is a challenge that I have asked U.S. companies to embrace.

I want American companies to get aggressive about getting their products and their people into foreign markets to bolster the U.S. presence around the world and bring jobs and dollars back home.

But when American companies embrace these new market opportunities, they need to know that the American government will back them up. They need to know that we will do all that we can to make sure our trading partners play by the rules.

That is why trade enforcement is critical. And this bill will step up trade enforcement in five ways.

Number one: Under my legislation, every year, the USTR will be required to identify the biggest trade barriers hurting the U.S. economically. The USTR will have to get Congress's input. And the USTR will be required to act, through the WTO or in some other way, to break those barriers down.

Number two: My bill will create a ''Chief Trade Enforcement Officer'' at the USTR. This person will be confirmed by the Senate. His or her entire job will be to investigate enforcement concerns and recommend action to the USTR. This person will also answer to Congress when it has concerns about enforcement.

Number three: This new Trade Enforcement Officer is going to have some backup. My bill will create a ''Trade Enforcement Working Group'' in the Executive Branch. It will be chaired by the USTR, and include representatives of the Departments of Commerce, State, Agriculture, and Treasury. They will help the Chief Trade Enforcement Officer get the job done.

Number four: This new Trade Enforcement Officer will need resources to get the job done. My bill provides $5 million additional to the USTR for enforcement. Right now, the President's Fiscal Year 2007 budget effectively cuts enforcement funds.

Number five: This bill will send a strong message to the International Monetary Fund. It will urge our Administration to tell the IMF to get aggressive with countries that manipulate their own currency to obtain a trade advantage. It will also urge the IMF to undertake reforms so it becomes more transparent and more representative of the emerging economies in Asia.

Senator HATCH wanted to make sure that the Federal Government does not lose sight of Federal and State sovereignty when negotiating, implementing, and enforcing trade agreements. That's an important issue to consider, and I'm glad it's in this bill.

The bottom line is that improving enforcement of our trade agreements will allow American companies to play hard and win big in the global marketplace. A level playing field is the foundation of American competitiveness on trade. This bill will help to provide it.

By Mr. DODD (for himself and Mr. WARNER):

S. 2318. A bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements; to the Committee on Environment and Public Works.

Mr. DODD. Mr. President, I rise with my colleague from Virginia, Senator WARNER, to introduce the Safe Teen and Novice Driver Uniform Protection, STANDUP, Act of 2006—an important piece of legislation that seeks to protect and ensure the lives of the 20 million teenage drivers in our country.

We all know that the teenage years represent an important formative stage in a person's life, They are a bridge between childhood and adulthood—the transitional and often challenging period during which a person will first gain an inner awareness of his or her identity. The teenage years encompass a time for discovery, a time for growth, and a time for gaining independence—all of which ultimately help boys and girls transition successfully into young men and women.

As we also know, the teenage years also encompass a time for risk-taking, A groundbreaking study published last year by the National Institutes of Health concluded that the frontal lobe region of the brain which inhibits risky behavior is not fully formed until the age of 25. In my view, this important report requires that we approach teenagers' behavior with a new sensitivity. It also requires that we have as a Nation an obligation to steer teenagers towards positive risk-taking that fosters further growth and development and away from negative risk-taking that has an adverse effect on their well-being and the well-being of others.

Unfortunately, we see all too often this negative risk-taking in teenagers when they are behind the wheel of a motor vehicle. We see all too often how this risk-taking needlessly endangers the life of a teenage driver, his or her passengers, and other drivers on the road. And we see all too often the tragic results of this risk-taking when irresponsible and reckless behavior behind the wheel of a motor vehicle causes severe harm and death.

According to the National Highway Traffic Safety Administration, motor vehicle crashes are the leading cause of death for Americans between 15 and 20 years of age. Between 1995 and 2004, 63,851 young Americans between the ages of 15 and 20 died in motor vehicle crashes—an average of 122 teenage deaths a week. Teenage drivers have a fatality rate that is four times higher than the average fatality rate for drivers between 25 and 70 years of age. Teenage drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers between the ages of 30 and 60.

A recent analysis by the American Automobile Association's Foundation for Traffic Safety concluded that teenage drivers comprise slightly more than one-third of all fatalities in motor vehicle crashes in which they are involved, whereas nearly two-thirds of all fatalities in those crashes are other drivers, passengers, and pedestrians.

Finally, the Insurance Institute for Highway Safety concludes that the chance of a crash by a driver either 16 or 17 years of age is doubled if there are two peers in the motor vehicle and quadrupled with three or more peers in the vehicle.

Crashes involving teenage injuries or fatalities are often high-profile tragedies in the area where they occur. However, when taken together, these individual tragedies speak to a national problem clearly illustrated by the staggering statistics I just mentioned. It is a problem that adversely affects teenage drivers, their passengers, and literally everyone else who operates or rides in a motor vehicle. Clearly, more work must be done to design and implement innovative methods that educate our young drivers on the awesome responsibilities that are associated with operating a motor vehicle safely.

One such method involves implementing and enforcing a graduated driver's license system, or a GDL system. Under a typical GDL system, a teenage driver passes through several sequential learning stages before earning the full privileges associated with an unrestricted driver's license. Each learning stage is designed to teach a teenage driver fundamental lessons on driver operations, responsibilities, and safety. Each stage also imposes certain restrictions, such as curfews on nighttime driving and limitations on passengers, that further ensure the safety of the teenage driver, his or her passengers, and other motorists.

First implemented over ten years ago, three-stage GDL systems now exist in 38 States. Furthermore, every State in the country has adopted at least one driving restriction for new teenage drivers. Several studies have concluded that GDL systems and other license restriction measures have been linked to an overall reduction on the number of teenage driver crashes and fatalities. In 1997, in the first full year that its GDL system was in effect, Florida experienced a 9 percent reduction in fatal and injurious motor vehicle crashes among teenage drivers between 15 and 18 years of age. After GDL systems were implemented in Michigan and North Carolina in 1997, the number of motor vehicle crashes involving teenage drivers 16 years of age decreased in each State by 25 percent and 27 percent, respectively. And in California, the numbers of teenage passenger deaths and injuries in crashes involving teenage drivers 16 years of age decreased by 40 percent between

1998 and 2000, the first three years that California's GDL system was in effect. The number of ''at- fault'' crashes involving teenage drivers decreased by 24 percent during the same period.

These statistics are promising and clearly show that many States are taking an important first step towards addressing this enormous problem concerning teenage driver safety. However, there is currently no uniformity between States with regards to GDL system requirements and other novice driver license restrictions. Some States have very strong initiatives in place that promote safe teenage driving while others have very weak initiatives in place. Given how many teenagers are killed or injured in motor vehicle crashes each year, and given how many other motorists and passengers are killed or injured in motor vehicle crashes involving teenage drivers each year, Senator WARNER and I believe that the time has come for an initiative that sets a national minimum safety standard for teen driving laws while giving each State the flexibility to set additional standards that meet the more specific needs of its teenage driver population. The bill that Senator WARNER and I are introducing today—the STANDUP Act—is such an initiative. There are four principal components of this legislation which I would like to briefly discuss.

First, The STANDUP Act mandates that all States implement a national minimum safety standard for teenage drivers that contains four core requirements recommended by the National Transportation Safety Board. These requirements include implementing a three-stage GDL system, implementing at least some prohibition on nighttime driving, placing a restriction on the number of passengers without adult supervision, and implementing a restriction on the use of electronic communications devices, such as cell phones, during non-emergency situations.

Second, the STANDUP Act directs the Secretary of Transportation to issue voluntary guidelines beyond the three core requirements that encourage States to adopt additional standards that improve the safety of teenage driving. These additional standards may include requiring that the learner's permit and intermediate stages be six months each, requiring at least 30 hours of behind- the-wheel driving for a novice driver in the learner's permit stage in the company of a licensed driver who is over 21 years of age, requiring a novice driver in the learner's permit stage to be accompanied and supervised by a licensed driver 21 years of age or older at all times when the novice driver is operating a motor vehicle, and requiring that the granting of an unrestricted driver's license be delayed automatically to any novice driver in the learner's permit or intermediate stages who commits a motor vehicle offense, such as driving while intoxicated, misrepresenting his or her true age, reckless driving, speeding, or driving without a fastened seatbelt.

Third, the STANDUP Act provides incentive grants to States that come into compliance within three fiscal years. Calculated on a State's annual share of the Highway Trust Fund, these incentive grants could be used for activities such as training law enforcement and relevant State agency personnel in the GDL law or publishing relevant educational materials on the GDL law.

Finally, the STANDUP Act calls for sanctions to be imposed on States that do not come into compliance after three fiscal years. The bill withholds 1.5 percent of a State's Federal highway share after the first fiscal year of non-compliance, three percent after the second fiscal year, and six percent after the third fiscal year. The bill does allow a State to reclaim any withheld funds if that State comes into compliance within two fiscal years after the first fiscal year of non-compliance.

There are those who will say that the STANDUP Act infringes on States' rights. I respectfully disagree. I believe that it is in the national interest to work to protect and ensure the lives and safety of the millions of teenage drivers, their passengers, and other motorists in our country. I also believe that the number of motor vehicle deaths and injuries associated with teenage drivers each year compels us to address this important national issue today and not tomorrow.

The teenage driving provisions within the STANDUP Act are both well-known and popular with the American public. A Harris Poll conducted in 2001 found that 95 percent of Americans support a requirement of 30 to 50 hours of practice driving within an adult, 92 percent of Americans support a six-month learner's permit stage, 74 percent of Americans support limiting the number of teen passengers in a motor vehicle with a teen driver, and 74 percent of Americans also support supervised or restricted driving during high-risk periods such as nighttime. Clearly, these numbers show that teen driving safety is an issue that transcends party politics and is strongly embraced by a solid majority of Americans. Therefore, I ask my colleagues today to join Senator WARNER and myself in protecting the lives of our teenagers and in supporting this important legislation.

I ask unanimous consent that text of this legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Teen and Novice Driver Uniform Protection Act of 2006'' or the ''STANDUP Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Highway Traffic Safety Administration has reported that—

(A) motor vehicle crashes are the leading cause of death of Americans between 15 and 20 years of age;

(B) between 1995 and 2004, 63,851 Americans between 15 and 20 years of age died in motor vehicle crashes, an average of 122 teenage deaths per week;

(C) teenage drivers between 16 and 20 years of age have a fatality rate that is 4 times the rate for drivers between 25 and 70 years of age; and

(D) teenage drivers who are 16 years of age have a motor vehicle crash rate that is almost ten times the crash rate for drivers aged between 30 and 60 years of age.

(2) According to the American Automobile Association, teenage drivers comprise slightly more than ⅓ of all fatalities in motor vehicle crashes in which they are involved and nearly ⅔ of all fatalities in those crashes are other drivers, passengers, and pedestrians.

(3) According to the Insurance Institute for Highway Safety, the chance of a crash by a 16- or 17-year-old driver is doubled if there are 2 peers in the vehicle and quadrupled with 3 or more peers in the vehicle.

(4) According to the National Highway Traffic Safety Administration, the cognitive distraction caused by hands-free and handheld cell phones is significant enough to degrade a driver's performance, particularly teenage drivers between 15 and 20 years of age.

(5) Although only 20 percent of driving by teenage drivers occurs at night, more than 50 percent of the motor vehicle crash fatalities involving teenage drivers occur at night.

(6) In 1997, the first full year of its graduated driver licensing system, Florida experienced a 9 percent reduction in fatal and injurious crashes among teenage drivers between the ages of 15 and 18, compared with 1995, according to the Insurance Institute for Highway Safety.

(7) The Journal of the American Medical Association reports that crashes involving 16-year-old drivers decreased between 1995 and 1999 by 25 percent in Michigan and 27 percent in North Carolina. Comprehensive graduated driver licensing systems were implemented in 1997 in these States.

(8) In California, according to the Automobile Club of Southern California, teenage passenger deaths and injuries resulting from crashes involving 16-year-old drivers declined by 40 percent from 1998 to 2000, the first 3 years of California's graduated driver licensing program. The number of at-fault collisions involving 16-year-old drivers decreased by 24 percent during the same period.

(9) The National Transportation Safety Board reports that 39 States and the District of Columbia have implemented 3-stage graduated driver licensing systems. Many States have not yet implemented these and other basic safety features of graduated driver licensing laws to protect the lives of teenage and novice drivers.

(10) A 2001 Harris Poll indicates that—

(A) 95 percent of Americans support a requirement of 30 to 50 hours of practice driving with an adult;

(B) 92 percent of Americans support a 6-month learner's permit period; and

(C) 74 percent of Americans support limiting the number of teenage passengers in a car with a teenage driver and supervised driving during high-risk driving periods, such as night.

SEC. 3. STATE GRADUATED DRIVER LICENSING LAWS.

(a) MINIMUM REQUIREMENTS.—A State is in compliance with this section if the State has a graduated driver licensing law that includes, for novice drivers under the age of 21—

(1) a 3-stage licensing process, including a learner's permit stage and an intermediate

stage before granting an unrestricted driver's license;

(2) a prohibition on nighttime driving during the intermediate stage;

(3) a prohibition, during the learner's permit intermediate stages, from operating a motor vehicle with more than 1 non-familial passenger under the age of 21 if there is no licensed driver 21 years of age or older present in the motor vehicle;

(4) a prohibition during the learner's permit and intermediate stages, from using a cellular telephone or any communications device in non-emergency situations; and

(5) any other requirement that the Secretary of Transportation (referred to in this Act as the ''Secretary'') may require, including—

(A) a learner's permit stage of at least 6 months;

(B) an intermediate stage of at least 6 months;

(C) for novice drivers in the learner's permit stage—

(i) a requirement of at least 30 hours of behind-the-wheel training with a licensed driver who is over 21 years of age; and

(ii) a requirement that any such driver be accompanied and supervised by a licensed driver 21 years of age or older at all times when such driver is operating a motor vehicle; and

(D) a requirement that the grant of full licensure be automatically delayed, in addition to any other penalties imposed by State law for any individual who, while holding a provisional license, convicted of an offense, such as driving while intoxicated, misrepresentation of their true age, reckless driving, unbelted driving, speeding, or other violations, as determined by the Secretary.

(b) RULEMAKING.—After public notice and comment rulemaking the Secretary shall issue regulations necessary to implement this section.

SEC. 4. INCENTIVE GRANTS.

(a) IN GENERAL.—For each of the first 3 fiscal years beginning after the date of enactment of this Act, the Secretary shall award a grant to any State in compliance with section 3(a) on or before the first day of that fiscal year that submits an application under subsection (b).

(b) APPLICATION.—Any State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a certification by the governor of the State that the State is in compliance with section 3(a).

(c) GRANTS.—For each fiscal year described in subsection (a), amounts appropriated to carry out this section shall be apportioned to each State in compliance with section 3(a) in an amount determined by multiplying—

(1) the amount appropriated to carry out this section for such fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State for such fiscal year under section 402 of title 23, United States Code, bears to the total amount of funds apportioned to all such States for such fiscal year under such section 402.

(d) USE OF FUNDS.—Amounts received under a grant under this section shall be used for—

(1) enforcement and providing training regarding the State graduated driver licensing law to law enforcement personnel and other relevant State agency personnel;

(2) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law; and

(3) other administrative activities that the Secretary considers relevant to the State graduated driver licensing law.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of the fiscal years 2007 through 2009 to carry out this section.

SEC. 5. WITHHOLDING OF FUNDS FOR NON-COMPLIANCE.

(a) IN GENERAL.—

(1) FISCAL YEAR 2010.—The Secretary shall withhold 1.5 percent of the amount otherwise required to be apportioned to any State for fiscal year 2010 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2009.

(2) FISCAL YEAR 2011.—The Secretary shall withhold 3 percent of the amount otherwise required to be apportioned to any State for fiscal year 2011 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on October 1, 2010.

(3) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold 6 percent of the amount otherwise required to be apportioned to any State for each fiscal year beginning with fiscal year 2012 under each of the paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if that State is not in compliance with section 3(a) of this Act on the first day of such fiscal year.

(b) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(1) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2011.—Any amount withheld from any State under subsection (a) on or before September 30, 2011, shall remain available for distribution to the State under subsection (c) until the end of the third fiscal year following the fiscal year for which such amount is appropriated.

(2) FUNDS WITHHELD AFTER SEPTEMBER 30, 2011.—Any amount withheld under subsection (a)(2) from any State after September 30, 2011, may not be distributed to the State.

(c) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—

(1) IN GENERAL.—If, before the last day of the period for which funds withheld under subsection (a) are to remain available to a State under subsection (b), the State comes into compliance with section 3(a), the Secretary shall, on the first day on which the State comes into compliance, distribute to the State any amounts withheld under subsection (a) that remains available for apportionment to the State.

(2) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any amount distributed under paragraph (1) shall remain available for expenditure by the State until the end of the third fiscal year for which the funds are so apportioned. Any amount not expended by the State by the end of such period shall revert back to the Treasury of the United States.

(3) EFFECT OF NON-COMPLIANCE.—If a State is not in compliance with section 3(a) at the end of the period for which any amount withheld under subsection (a) remains available for distribution to the State under subsection (b), such amount shall revert back to the Treasury of the United States.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 373—EXPRESSING THE SENSE OF THE SENATE THAT THE SENATE SHOULD CONTINUE TO SUPPORT THE NATIONAL DOMESTIC VIOLENCE HOTLINE, A CRITICAL NATIONAL RESOURCE THAT SAVES LIVES EACH DAY, AND COMMEMORATE ITS 10TH ANNIVERSARY

Mr. BIDEN (for himself, Mr. CORNYN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. LEAHY, Mr. HATCH, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 373

Whereas 2006 marks the 10th year that the Hotline has been answering calls and saving lives;

Whereas, 10 years ago this month, the Hotline answered its first call;

Whereas the Hotline is a project of the Texas Council on Family Violence headquartered in Austin, Texas, and provides crisis intervention, information, and referral to victims of domestic violence, their friends, and their families;

Whereas the Hotline operates 24 hours a day and 365 days a year;

Whereas the Hotline provides its users with anonymous assistance in more than 140 different languages, and a telecommunications device for the deaf, deaf-blind, and hard of hearing;

Whereas the Hotline was created by Congress in the Violence Against Women Act of 1994 (Public Law 103–322; 108 Stat. 1902);

Whereas Congress continues its commitment to families of the United States by strengthening and renewing this important legislation in 2000 and most recently in December, 2005;

Whereas, since taking its first call in 1996, the Hotline has answered over 1,500,000 calls;

Whereas, since its inception, the Hotline has become a vital link to safety for victims of domestic violence and their families;

Whereas today, Hotline advocates answer as many as 600 calls per day and an average of 16,500 calls per month from women, men, and children from across the United States;

Whereas, as public awareness grows about domestic violence, the Hotline has seen a significant increase in call volume, with calls to the Hotline increasing by 200 percent over the last 10 years;

Whereas, because no victim should ever get a busy signal, the Hotline recently unveiled cutting edge technology that will allow more victims to connect to life saving services; and

Whereas the 10th anniversary of the Hotline marks a true partnership between the Federal Government and private businesses as each has come together in a collaborative effort to save lives: Now, therefore, be it

Resolved, That the Senate should—

(1) continue to support the National Domestic Violence Hotline; and

(2) commemorate the 10th anniversary of this critical national resource that saves lives each day.

Mr. BIDEN. Mr. President, I rise today with my colleagues Senators CORNYN, HUTCHISON, HATCH, SPECTER, LEAHY and KENNEDY to submit a Resolution commemorating the 10th anniversary of a critical American resource—the National Domestic Violence Hotline. Operating 24 hours a

day, 365 days every year, in more than 140 different languages, with a TTY line available for the deaf, the Hotline offers confidential and anonymous help for victims of domestic violence, their families and friends.

Located in Austin, TX, the National Domestic Violence Hotline was created in the Violence Against Women Act of 1994. As I began to draft that Act over 15 years ago, I held many Congressional hearings and listened to hours of testimony from experts about how to craft an effective, coordinated community response to battering. One of the realities that was raised over and over in those hearings was how very difficult it was, and still is, for a battered woman to admit the abuse. It was, and still is, very difficult for a battered woman to report the abuse to the police or local prosecutor. In the Violence Against Women Act we created a safe haven—a place to talk about the abuse that offered lots of solutions and total anonymity, the National Domestic Violence Hotline.

On February 21, 1996, the Hotline answered its first call, and since then has received over 1.5 million calls. Today, Hotline advocates answer as many as 600 calls per day and an average of 16,500 calls per month from women, men and children across the nation. These are real lives that have been dramatically changed by their first call to the National Domestic Violence Hotline. Over 60 percent of the Hotline callers report that this is their very first attempt to deal with the abuse—they hadn't told a friend yet, or reported it to the police.

Each day Hotline advocates listen and respond to heart-wrenching pleas for help and information, and each day they offer their callers hope and help. I am pleased that the Senate can recognize their hard work with today's Senate Resolution commemorating its 10th anniversary. It is but a small token of this body's gratitude for the National Domestic Violence Hotline.

SENATE RESOLUTION 374—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES OF AMERICA V. DAVID HOSSEIN SAFAVIAN

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 374

Whereas, in the case of *United States of America* v. *David Hossein Safavian*, Crim. No. 05–370, pending in the United States District Court for the District of Columbia, testimony and documents have been requested from Bryan D. Parker, an employee on the staff of the Committee on Indian Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved that Bryan D. Parker, and any other employee of the Committee on Indian Affairs from whom testimony or the production of documents may be required, are authorized to testify and produce documents in the case of United States of America v. David Hossein Safavian, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Bryan D. Parker, and any other Members, officers, or employees of the Senate, in connection with the testimony and document production authorized in section one of this resolution.

SENATE RESOLUTION 375—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN STATE OF NEW HAMPSHIRE V. WILLIAM THOMAS, KETA C. JONES, JOHN FRANCIS BOPP, MICHAEL S. FRANKLIN, DAVID VAN STREIN, GUY CHICHESTER, JAMILLA EL-SHAFEI, AND ANN ISENBERG

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 375

Whereas, in the cases of State of New Hampshire v. William Thomas (C–05–49153–AR), Keta C. Jones (C–05–49153–A–AR), John Francis Bopp (C–05–49153–B–AR), Michael S. Franklin (C–05–49153–C–AR), David Van Strein (C–05–49153–D–AR), Guy Chichester (C–05–49153–E–AR), Jamilla El-Shafei (C–05–49153–F–AR), and Ann Isenberg (C–05–49153–G–AR), pending in Concord District Court, New Hampshire, testimony has been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony may be required are authorized to testify in the cases of State of New Hampshire v. William Thomas, Keta C. Jones, John Francis Bopp, Michael S. Franklin, David Van Strein, Guy Chichester, Jamilla El-Shafei, and Ann Isenberg, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony authorized in section one of this resolution.

SENATE RESOLUTION 376—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF KEYTER V. MCCAIN, ET AL.

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 376

Whereas, pursuant to Senate Resolution 213, 109th Congress, the Senate Legal Counsel is currently representing Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al., filed in the United States District Court for the District of Arizona, Civ. No. 05–1923–PHX–DGC;

Whereas, the plaintiff filed an amended complaint naming Senators Bill Frist, Joseph I. Lieberman, Mitch McConnell, Rick Santorum, and Ted Stevens as additional defendants in the action;

Whereas the District Court dismissed the action for lack of jurisdiction and for failure to state a claim upon which relief may be granted;

Whereas the plaintiff has appealed the dismissal of the action to the United States Court of Appeals for the Ninth Circuit; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators Bill Frist, Joseph I. Lieberman, Mitch McConnell, Rick Santorum, and Ted Stevens in the case of Keyter v. McCain, et al.

SENATE RESOLUTION 377—HONORING THE LIFE OF DR. NORMAN SHUMWAY AND EXPRESSING THE CONDOLENCES OF THE SENATE ON HIS PASSING

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 377

Whereas Norman Shumway was an inspirational leader and medical pioneer;

Whereas Dr. Norman Shumway performed the first successful heart transplant in the United States, and was considered the father of heart transplantation in America;

Whereas Dr. Norman Shumway's seminal work with Dr Richard Lower at Stanford Medical Center set in motion the longest and most successful clinical cardiac transplant program in the world,;

Whereas Dr. Norman Shumway co-edited a definitive book on thoracic organ transplantation along with his daughter who is also a cardiac surgeon;

Whereas Dr. Norman Shumway continued to research the medical complexities of heart transplants when many were abandoning the procedure because of poor outcomes due to rejection;

Whereas Dr. Norman Shumway trained hundreds of surgeons who have gone on to lead academic and clinical cardiac surgical programs around the world;

Whereas Dr. Norman Shumway served our country in the United States Army from 1943 to 1946, and in the United States Air Force from 1951 to 1953;

Whereas Dr. Norman Shumway earned his medical degree from Vanderbilt University in 1949, and his doctorate from the University of Minnesota in 1956;

Whereas Dr. Norman Shumway was awarded with numerous honorary degrees by his peers, including the American Medical Association's Scientific Achievement Award and the Lifetime Achievement Award of the International Society for Heart and Lung Transplantation;

Whereas Dr. Norman Shumway is survived by his son, Michael, and three daughters, Amy, Lisa and Sara, and his former wife, Mary Lou; and

Whereas Dr. Norman Shumway has left a legacy of life around the world thanks to his tireless work of understanding and perfecting heart transplantation: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Dr. Norman Shumway;

(2) recognizes his contribution to medical science and discovery;

(3) expresses its sympathies to the family of Dr. Norman Shumway; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Dr. Norman Shumway.

SENATE RESOLUTION 378—DESIGNATING FEBRUARY 25, 2006, ''NATIONAL MPS AWARENESS DAY''

Mr. GRAHAM (for himself, Mr. CHAMBLISS, Mr. FEINGOLD, Mr. KOHL, Mrs. MURRAY, Ms. COLLINS, Ms. SNOWE, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. BROWNBACK, Mrs. DOLE, Mr. JEFFORDS, and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 378

Whereas Mucopolysaccharidosis (referred to in this preamble as ''MPS'') is a genetically determined lysosomal storage disorder that renders the human body incapable of producing certain enzymes needed to breakdown complex carbohydrates;

Whereas complex carbohydrates are then stored in almost every cell in the body and progressively cause damage to those cells;

Whereas the cell damage adversely affects the human body by damaging the heart, respiratory system, bones, internal organs, and central nervous system;

Whereas the cellular damage caused by MPS often results in mental retardation, short stature, corneal damage, joint stiffness, loss of mobility, speech and hearing impairment, heart disease, hyperactivity, chronic respiratory problems, and, most importantly, a drastically shortened life span;

Whereas the nature of the disorder is usually not apparent at birth;

Whereas without treatment, the life expectancy of an individual afflicted with MPS begins to decrease at a very early stage in the life of the individual;

Whereas recent research developments have resulted in the creation of limited treatments for some MPS disorders;

Whereas promising advancements in the pursuit of treatments for additional MPS disorders are underway;

Whereas, despite the creation of newly developed remedies, the blood brain barrier continues to be a significant impediment to effectively treating the brain, thereby preventing the treatment of many of the symptoms of MPS;

Whereas treatments for MPS will be greatly enhanced with continued public funding;

Whereas the quality of life for individuals afflicted with MPS, and the treatments available to them, will be enhanced through the development of early detection techniques and early intervention;

Whereas treatments and research advancements for MPS are limited by a lack of awareness about MPS disorders;

Whereas the lack of awareness about MPS disorders extends to those within the medical community;

Whereas the damage that is caused by MPS makes it a model for many other degenerative genetic disorders;

Whereas the development of effective therapies and a potential cure for MPS disorders can be accomplished by increased awareness, research, data collection, and information distribution;

Whereas the Senate is an institution than can raise public awareness about MPS; and

Whereas the Senate is also an institution that can assist in encouraging and facilitating increased public and private sector research for early diagnosis and treatments of MPS disorders: Now, therefore, be it

Resolved, That the Senate—

(1) designates February 25, 2006, as ''National MPS Awareness Day''; and

(2) supports the goals and ideals of ''National MPS Awareness Day''.

SENATE RESOLUTION 379—RECOGNIZING THE CREATION OF THE NASCAR-HISTORICALLY BLACK COLLEGES AND UNIVERSITIES CONSORTIUM

Mr. SANTORUM (for himself, Mr. NELSON of Florida, Mr. BURR, Mrs. DOLE, and Mr. ALLEN) submitted the following resolution; which was considered and agreed to:

S. RES. 379

Whereas the Bureau of Labor Statistics reports that, while there are 1,300,000 automotive technicians currently employed, industry figures confirm that an additional 50,000 technicians are needed to fill open positions each year;

Whereas the National Automotive Dealers Association reports that 57 percent of the operating profit of automotive dealers is generated by the parts and service departments of automotive dealers;

Whereas the findings of the National Automotive Dealers Association reveal that dealers consider it difficult to locate qualified technicians;

Whereas 42 percent of all dealer technicians have been engaged in that line of work for less than 1 year;

Whereas the National Association for Stock Car Auto Racing, Inc. (referred to in this preamble as ''NASCAR''), the NASCAR Universal Technical Institute, and a collaboration of Historically Black Colleges and Universities (referred to in this preamble as ''HBCUs'') have agreed to create a consortium to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities, including automotive engineering and technology, automotive safety, sports marketing, and other automotive industry areas;

Whereas the NASCAR-HBCUs Consortium is establishing a formal plan to increase the number of quality job opportunities available to African American students within NASCAR in key racing and other related automotive business activities through the NASCAR Universal Training Institute and the NASCAR Diversity Internship Program;

Whereas NASCAR has agreed to enhance their identification of employment opportunities, including internships, full time jobs, entry level management positions, part-time jobs for college students, and post-graduate job placement for students pursuing undergraduate and graduate degrees at partner HBCUs;

Whereas the NASCAR-HBCUs Consortium has developed a program to increase the awareness, access, and participation of African American students in the NASCAR Universal Training Institute and NASCAR Diversity Internship Program for the racing and other related automotive industries; and

Whereas the NASCAR-HBCUs Consortium will seek opportunities to establish and enhance the funding of targeted job development activities by partner HBCUs, and generate support for the HBCUs in their efforts to enhance curriculum development in sports marketing, finance, human resource management, and other automotive industry areas: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the National Association for Stock Car Auto Racing, Inc. (referred to in this resolution as ''NASCAR''), the NASCAR Universal Technical Institute, and a collaboration of Historically Black Colleges and Universities (referred to in this resolution as ''HBCUs''), for their creation of a consortium to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities;

(2) commends HBCUs, including Alabama A&M University, Alabama State University, Bethune Cookman College, Howard University, North Carolina A&T University, Talladega College, and Winston-Salem State University, for their efforts to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities; and

(3) encourages the Departments of Education and Labor and other appropriate agencies of the Federal Government to provide suitable assistance and support to ensure the success of that effort.

SENATE RESOLUTION 380—CELEBRATING BLACK HISTORY MONTH

Mr. ALEXANDER (for himself, Mr. COLEMAN, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. DOMENICI, Mr. GRAHAM, Mr. JOHNSON, Ms. LANDRIEU, Mr. LEVIN, Mr. PRYOR, Mr. SANTORUM, Mr. HAGEL, Mr. DURBIN, Mrs. LINCOLN, Mr. FEINSTEIN, Mr. KENNEDY, Mr. DEMINT, Mr. STEVENS, Mr. LAUTENBERG, Mrs. DOLE, Mr. REID, Ms. CANTWELL, Mr. MCCONNELL, Mr. ALLARD, Mr. TALENT, Mr. ALLEN, Mr. MENENDEZ, Mr. NELSON of Florida, Ms. STABENOW, Mr. BUNNING, Mr. DEWINE, Mr. OBAMA, Ms. SNOWE, Mr. ISAKSON, Mr. KOHL, and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 380

Whereas the first African Americans were brought forcibly to the shores of America as early as the 17th century;

Whereas African Americans were enslaved in the United States and subsequently faced the injustices of lynch mobs, segregation, and denial of basic, fundamental rights;

Whereas in spite of these injustices, African Americans have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas in the face of these injustices, United States citizens of all races distinguished themselves in their commitment to the ideals on which the United States was founded, and fought for the rights of African Americans;

Whereas the greatness of the United States is reflected in the contributions of African Americans in all walks of life throughout the history of the United States, including through—

(1) the writings of Booker T. Washington, James Baldwin, Ralph Ellison, and Alex Haley;

(2) the music of Mahalia Jackson, Billie Holiday, and Duke Ellington;

(3) the resolve of athletes such as Jackie Robinson, Jesse Owens, and Muhammed Ali;

(4) the vision of leaders such as Frederick Douglass, Thurgood Marshall, and Martin Luther King, Jr.; and

(5) the bravery of those who stood on the front lines in the battle against oppression, such as Sojourner Truth and Rosa Parks;

Whereas the United States of America was conceived, as stated in the Declaration of Independence, as a new country dedicated to the proposition that ''all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness'';

Whereas United States citizens of all races demonstrate their commitment to that proposition through actions such as those of—

(1) Allan Pinkerton, Thomas Garrett, and the Rev. John Rankin, who served as conductors in the Underground Railroad;

(2) Harriet Beecher Stowe, who shined a light on the injustices of slavery;

(3) President Abraham Lincoln, who issued the Emancipation Proclamation, and Senator Lyman Trumbull, who introduced the 13th Amendment to the Constitution of the United States;

(4) President Lyndon B. Johnson, Chief Justice Earl Warren, Senator Mike Mansfield, and Senator Hubert Humphrey, who fought to end segregation and the denial of civil rights to African Americans; and

(5) Americans of all races who marched side-by-side with African Americans during the civil rights movement;

Whereas, since its founding, the United States has been an imperfect work in making progress towards those noble goals;

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach them but often failing, and then struggling to come to terms with the disappointment of that failure before recommitting themselves to trying again;

Whereas, from the beginning of our Nation, the most conspicuous and persistent failure of United States citizens to reach those noble goals has been the enslavement of African Americans and the resulting racism;

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas the Federal Government failed to put an end to slavery until the ratification of the 13th Amendment in 1865, repeatedly failed to enact a Federal anti-lynching law, and still struggles to deal with the evils of racism; and

Whereas the fact that 61 percent of African American 4th graders read at a below basic level and only 16 percent of native born African Americans have earned a Bachelor's degree, 50 percent of all new HIV cases are reported in African Americans, and the leading cause of death for African American males ages 15 to 34 is homicide, demonstrates that the United States continues to struggle to reach the high ideal of equal opportunity for all citizens of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the tragedies of slavery, lynching, and segregation, and condemns them as an infringement on human liberty and equal opportunity so that they will stand forever as a reminder of what can happen when the citizens of the United States fail to live up to their noble goals;

(2) honors those United States citizens who—

(A) risked their lives during the time of slavery, lynching, and segregation in the Underground Railroad and in other efforts to assist fugitive slaves and other African Americans who might have been targets and victims of lynch mobs; and

(B) those who have stood beside African Americans in the fight for equal opportunity that continues to this day;

(3) reaffirms its commitment to the founding principles of the United States of America that ''all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness'';

(4) commits itself to addressing those situations in which the African American community struggles with disparities in education, health care, and other areas where the Federal Government can help improve conditions for all citizens of the United States; and

(5) calls on the citizens of the United States to observe Black History Month with appropriate programs, ceremonies, and activities.

SENATE RESOLUTION 381—DESIGNATING MARCH 1, 2006, AS NATIONAL SIBLING CONNECTION DAY

Mr. SALAZAR (for himself, Mr. ENSIGN, Ms. LANDRIEU, Mr. AKAKA, Mr. JOHNSON, Mr. KERRY, and Ms. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 381

Whereas sibling relationships are among the longest lasting and most significant relationships in life;

Whereas brothers and sisters share history, memories, and traditions that bind them together as family;

Whereas it is estimated that over 65 percent of children in foster care have siblings, and are often separated when they are placed in the foster care system, adopted, or confronted with different kinship placements;

Whereas children in foster care have a greater risk of emotional disturbance, difficulties in school, and problems with relationships than their peers;

Whereas the separation of siblings as children causes additional grief and loss;

Whereas organizations and private volunteers advocate for the preservation of sibling relationships in foster care settings and provide siblings in foster care with the opportunity to reunite;

Whereas Camp to Belong, a nonprofit organization founded in 1995 by Lynn Price, heightens public awareness of the need to preserve sibling relationships in foster care settings and gives siblings in foster care the opportunity to reunite; and

Whereas Camp to Belong has reunited over 2,000 separated siblings across the United States, the United States Virgin Islands, and Canada: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 1, 2006, as ''Siblings Connection Day'';

(2) encourages the people of the United States to celebrate sibling relationships on this day; and

(3) supports efforts to respect and preserve those sibling relationships that are at risk of being disrupted due to the placement of children into the foster care system.

SENATE RESOLUTION 81—RECOGNIZING AND HONORING THE 150TH ANNIVERSARY OF THE FOUNDING OF THE SIGMA ALPHA EPSILON FRATERNITY

Mr. ISAKSON submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 81

Whereas the Sigma Alpha Epsilon Fraternity was founded on March 9, 1856, by 8 young men at the University of Alabama in Tuscaloosa, Alabama, in order to establish a band of brothers;

Whereas the founders of the fraternity believed in promoting the intellectual, moral, and spiritual welfare of their members;

Whereas the mission of the Sigma Alpha Epsilon Fraternity is to promote the highest standards of friendship, scholarship, and service for its members;

Whereas the Sigma Alpha Epsilon Fraternity adheres to its creed known as ''The True Gentleman'' and lives up to its ideals and aspirations for conduct with fellow man;

Whereas, for 150 years, the Sigma Alpha Epsilon Fraternity has played an integral role in the positive development of the character and education of more than 280,000 men;

Whereas the brothers of Sigma Alpha Epsilon, being from different backgrounds, ethnic groups, and temperaments, have shared countless friendships and a common belief in the founding ideals of the fraternity;

Whereas tens of thousands of Sigma Alpha Epsilon men have served our nation's military and hundreds have given the ultimate sacrifice for our freedom;

Whereas alumni from Sigma Alpha Epsilon serve as leaders in their respective fields, including government, business, entertainment, science, and higher education;

Whereas the Sigma Alpha Epsilon Fraternity has 190,000 living alumni from as many as 290 chapters at colleges and universities in 49 states and Canada, making it the largest social fraternity in the world; and

Whereas Sigma Alpha Epsilon continues to enrich the lives of its members who, in turn, give back to their families, communities, and other service groups: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and honors the 150th anniversary of the founding of the Sigma Alpha Epsilon Fraternity;

(2) commends its founding fathers and all Sigma Alpha Epsilon brothers, past and present, for their bond of friendship, common ideals and beliefs, and service to community; and

(3) expresses its best wishes to this most respected and cherished of national fraternities for continued success and growth.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2891. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table.

SA 2892. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2893. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2894. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

SA 2895. Mr. FRIST proposed an amendment to the bill S. 2271, supra.

SA 2896. Mr. FRIST proposed an amendment to amendment SA 2895 proposed by Mr. FRIST to the bill S. 2271, supra.

SA 2897. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2271, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2891. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:

SEC. 6. NATIONAL SECURITY LETTER SUNSET.

Section 102(b) of the applicable Act is amended to read as follows:

''(b) SECTIONS 206, 215, AND 505 SUNSET.—

''(1) IN GENERAL.—Effective December 31, 2009, the following provisions are amended so that they read as they read on October 25, 2001:

''(A) Sections 105(c)(2), 501, and 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1802(c)(2), 1861, 1862).

''(B) Section 2709 of title 18, United States Code.

''(C) Sections 636 and 637 of the Fair Credit Reporting Act (15 U.S.C. 1681u. 1681v).

''(D) Section 1114(a)(5) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)).

''(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which such provisions cease to have effect, such provisions shall continue in effect.''.

SA 2892. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:

SEC. 6. FACTUAL BASIS FOR REQUESTED ORDER.

Section 501(b)(2)(A) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)(A)), as amended by the applicable Act, is amended to read as follows:

''(A) a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

''(i) are relevant to an authorized investigation conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

''(ii) either—

''(I) pertain to a foreign power or an agent of a foreign power;

''(II) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

''(III) pertain to an individual in contact with, or known to, a suspected agent of a foreign power; and''.

SA 2893. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 9 and all that follows through page 6, line 2 and insert the following:

SEC. 3. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL SECURITY LETTERS.

(a) FISA.—Section 501(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861), as amended by the applicable Act, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1)(A) A person receiving an order to produce any tangible thing under this section may challenge the legality of that order, including any prohibition on disclosure, by filing a petition with the pool established by section 103(e)(1).

''(B) The presiding judge shall immediately assign a petition submitted under subparagraph (A) to 1 of the judges serving in the pool established by section 103(e)(1).

''(C)(i) Not later than 72 hours after the assignment of a petition under subparagraph (B), the assigned judge shall conduct an initial review of the petition.

''(ii) If the assigned judge determines under clause (i) that—

''(I) the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the order; and

''(II) the petition is not frivolous, the assigned judge shall promptly consider the petition in accordance with the procedures established pursuant to section 103(e)(2).

''(D) The assigned judge may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. The assigned judge shall promptly provide a written statement for the record of the reasons for any determination under this paragraph.

''(2) A petition for review of a decision to affirm, modify, or set aside an order, including any prohibition on disclosure, by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.''.

(b) JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.—Section 3511(b) of title 18, United States Code, as amended by the applicable Act, is amended—

(1) in paragraph (2), by striking ''If, at the time of the petition,'' and all that follows through the end of the paragraph; and

(2) in paragraph (3), by striking ''If the recertification that disclosure may'' and all that follows through ''made in bad faith.''.

SA 2894. Mr. FEINGOLD (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, after line 11, add the following:

SEC. 6. LIMITATION ON REASONABLE PERIOD FOR DELAY.

Section 3103a(b)(3) of title 18, United States Code, as amended by the applicable Act, is amended by striking ''30 days'' and inserting ''7 days''.

SA 2895. Mr. FRIST proposed an amendment to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; as follows:

At the end of the bill add the following: This Act shall become effective 1 day after enactment.

SA 2896. Mr. FRIST proposed an amendment SA 2895 proposed by Mr. FRIST to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic

communication service providers unless they provide specific services, and for other purposes; as follows:

Strike all after first word and insert: Act shall become effective immediately upon enactment.

SA 2897. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2271, to clarify that individuals who receive FISA orders can challenge nondisclosure requirements, that individuals who receive national security letters are not required to disclose the name of their attorney, that libraries are not wire or electronic communication service providers unless they provide specific services, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, lines 22 through 24, strike ''Not less than 1 year after the date of the issuance of the production order, the recipient of'' and insert ''A person receiving''.

On page 4, strike lines 12 through 19.

On page 4, line 20, strike ''(iii)'' and insert ''(ii)''.

At the end of the bill, add the following:

SEC. 6. JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS; ELIMINATION OF THE "CONCLUSIVE PRESUMPTION".

Section 3511(b) of title 18, United States Code, as amended by the applicable Act, is amended—

(1) in paragraph (2), by striking the last sentence; and

(2) in paragraph (3), by striking the last sentence.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 2, 2006, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the proposed Fiscal Year 2007 Department of Interior budget.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Elizabeth Abrams (202–224–0537) or Shannon Ewan (202–224–7555) of the Committee staff.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Tuesday, February 28, 2006, at 9:30 a.m., to mark up an original bill to make the legislative process more transparent.

For further information regarding this hearing, please contact Susan Wells at the Rules and Administration Committee on 224–6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 16, 2006, at 9:30 a.m., in open session to receive testimony on the priorities and plans for the atomic energy defense activities of the Department of Energy and to review the fiscal year 2007 President's budget request for atomic energy defense activities of the Department of Energy and the National Nuclear Security Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, February 16, 2006, at 10 a.m. to conduct an oversight hearing on the semi-annual monetary policy report of the Federal Reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 16 at 10 a.m. The purpose of this hearing is to receive testimony regarding S. 2253, to require the Secretary of the Interior to offer certain areas of the 181 areas of the Gulf of Mexico for oil and gas leasing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 16 at 2:30 p.m. The purpose of this hearing is to discuss the Energy Information Administration's 2006 annual energy outlook on trends and issues affecting the United States energy market.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, February 16, 2006, at 10:30 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Administration's Trade Agenda for 2006''.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 16, 2006, at 10 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, February 16, 2006 at 10 a.m. in SD–G50.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 16, 2006, at 9:30 a.m. in the Senate Dirksen Building Room 226.

Agenda

I. Nominations: Timothy C. Batten, Sr. to be U.S. District Judge for the Northern District of Georgia; Thomas E. Johnston to be U.S. District Judge for the Southern District of West Virginia; Aida M. Delgado-Colon to be U.S. District Judge for the District of Puerto Rico; Leo Maury Gordon to be a Judge of the United States Court of International Trade; Carol E. Dinkins to be Chairman of the Privacy and Civil Liberties Oversight Board; Alan Charles Raul to be Vice Chairman of the Privacy and Civil Liberties Oversight Board; Paul J. McNulty to be Deputy Attorney General; Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel; Reginald Lloyd to be U.S. Attorney for the District of South Carolina; Stephen King to be a Member of the Foreign Claims Settlement Commission of the United States.

II. Bills: H.R. 683, Trademark Dilution Revision Act of 2005 Smith—TX; S. 1768, A bill to permit the televising of Supreme Court proceedings Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin; S. 829, Sunshine in the Courtroom Act of 2005 Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin; Graham, DeWine;

S.___, Comprehensive Immigration Reform [Chairman's Mark]; S. 489, Federal Consent Decree Fairness Act Alexander, Kyl, Cornyn, Graham, Hatch.

III. Matters: S.J. Res. 1, Marriage Protection Amendment Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, February 16, 2006, for a committee hearing on the Administration's proposed fiscal year 2007 Department of Veterans Affairs budget. The hearing will take place in room 418

of the Russell Senate Office Building at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 16, 2006 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. CRAIG. Mr. President, I ask unanimous consent that the subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 16 at 1:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: S.J. Res. 28, a joint resolution approving the location of the commemorative work in the District of Columbia honoring former President Dwight D. Eisenhower; S. 1870, a bill to clarify the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historical Park, and for other purposes; S. 1913, a bill to authorize the Secretary of the Interior to lease a portion of the Dorothy Buell Memorial Visitor Center for use as a visitor center for the Indiana Dunes National Lakeshore, and for other purposes; S. 1970, a bill to amend the National Trials System Act to update the feasibility and suitability study originally prepared for the Trail of Tears National Historic Trail and provide for the inclusion of new trail segments, land components, and campgrounds associated with that trail, and for other purposes; H.R. 562, a bill to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933; and H.R. 318, a bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL OCEAN POLICY STUDY

Mr. CRAIG. Mr. President, I ask unanimous consent that the National Ocean Policy Study be authorized to meet on Thursday, February 16, 2006, at 2:30 p.m., on the NOAA Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, and all nominations on the Secretary's desk.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Bernadette Mary Allen, of Maryland, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

Janice L. Jacobs, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Steven Alan Browning, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Patricia Newton Moller, of Arkansas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Burundi.

Jeanine E. Jackson, of Wyoming, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

Kristie A. Kenney, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Philippines.

Robert Weisberg, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Congo.

Janet Ann Sanderson, of Arizona, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti.

James D. McGee, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Comoros.

Gary A Grappo, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Sultanate of Oman.

Patricia A. Butenis, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Donald T. Bliss, of Maryland, for the rank of Ambassador during his tenure of service as Representative of the United States of America on the Council of the International Civil Aviation Organization.

Claudia A. McMurray, of Virginia, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Bradford R. Higgins, of Connecticut, to be an Assistant Secretary of State (Resource Management).

Bradford R. Higgins, of Connecticut, to be Chief Financial Officer, Department of State.

Jackie Wolcott Sanders, of Virginia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Jackie Wolcott Sanders, of Virginia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Michael W. Michalak, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as United States Senior Official to the Asia-Pacific Economic Cooperation Forum.

INTERNATIONAL MONETARY FUND

Ben S. Bernanke, of New Jersey, to be United States Alternate Governor of the International Monetary Fund for a term of five years.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Terrence L. Bracy, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring October 6, 2010.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Ronald F. Sams, 5888

The following named officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brigadier General David L. Frostman, 2235
Brigadier General James W. Graves, 4813
Brigadier General Linda S. Hemminger, 5711
Brigadier General John M. Howlett, 8450
Brigadier General Harold L. Mitchell, 1941
Brigadier General Hanferd J. Moen, Jr., 4733
Brigadier General William M. Rajczak, 8761
Brigadier General David N. Senty, 6128
Brigadier General Erika C. Steuterman, 3209

To be brigadier general

Colonel John M. Allen, 7694
Colonel Robert E. Bailey, Jr., 4059
Colonel Eric W. Crabtree, 0505
Colonel Dean J. Despinoy, 2656
Colonel Wallace W. Farris, Jr., 0582
Colonel John C. Fobian, 0618
Colonel Thomas W. Hartmann, 2331
Colonel James R. Hogue, 4929
Colonel Mark A. Kyle, 0227
Colonel Carol A. Lee, 8418

Colonel Jon R. Shasteen, 5384
Colonel Robert O. Tarter, 9864
Colonel Howard N. Thompson, 2169
Colonel Christine M. Turner, 3200
Colonel Paul M. Van Sickle, 8889

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Glenn F. Spears, 2012

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S. C., section 12203:

To be major general

Brig. Gen. Dennis G. Lucas, 9054

The following named officer for appointment in the Regular Air Force of the United States to the position and grade indicated under titled 10, U.S.C., section 8037:

To be judge advocate general of the United States Air Force

Maj. Gen. Jack L. Rives, 0540

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Steven J. Lepper, 1477

IN THE ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Malinda E. Dunn, 7123
Col. Clyde J. Tate III, 1356

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Richard G. Maxon, 0268

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Michael D. Barbero, 1169
Brigadier General Salvatore F. Cambria, 8655
Brigadier General John M. Custer III, 4336
Brigadier General Richard P. Formica, 7015
Brigadier General David P. Fridovich, 6568
Brigadier General Kathleen M. Gainey, 4227
Brigadier General William T. Grisoli, 3836
Brigadier General Carter F. Ham, 0921
Brigadier General Jeffery W. Hammond, 0841
Brigadier General Frank G. Helmick, 8189
Brigadier General Paul S. Izzo, 1942
Brigadier General Francis H. Kearney, III,
Brigadier General Stephen R. Layfield, 7666
Brigadier General Robert P. Lennox, 8104
Brigadier General William H. McCoy, Jr., 5356
Brigadier General Timothy P. McHale, 0796
Brigadier General John W. Morgan, III, 7279
Brigadier General Michael L. Oates, 3680
Brigadier General Robert M. Radin, 0402
Brigadier General Curtis M. Scaparrotti, 8351

The following named officer for appointment in the United States Army to the rank indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Thomas F. Metz, 5686

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David P. Valcourt, 6455

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Raymond T. Odierno, 8425

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stanley A. McChrystal, 3565

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel Ronald L. Bailey, 2330
Colonel Michael M. Brogan, 2241
Colonel Jon M. Davis, 8884
Colonel Timothy C. Hanifen, 3096
Colonel James A. Kessler, 4042
Colonel James B. Laster, 4280
Colonel Angela Salinas, 8578
Colonel Peter J. Talleri, 9793
Colonel John A. Toolan, Jr, 4023
Colonel Robert S. Walsh, 8100

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Robert T. Conway, Jr., 2950

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN995 AIR FORCE nominations (74) beginning JAMES C. AULT, and ending MARYANNE C. YIP, which nominations were received by the Senate and appeared in the Congressional Record of October 17, 2005.

PN1201 AIR FORCE nomination of Barbara A. Hilgenberg, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1202 AIR FORCE nomination of Evelyn S. Gemperle, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1203 AIR FORCE nominations (4) beginning JOHN W. AYRES JR., and ending ALAN E. JOHNSON, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1204 AIR FORCE nominations (6) beginning DAVID HARRISION BURDETTE, and ending DOMINIC O. UBAMADU, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1205 AIR FORCE nominations (6) beginning KAREN MARIE BACHMANN, and ending MARY V. LUSSIER, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1206 AIR FORCE nominations (6) beginning RAYMOND L. HAGAN JR., and ending WILLIAM H. WILLIS SR., which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1207 AIR FORCE nominations (5) beginning RUSSELL G. BOESTER, and ending RICHARD T. SHELTON, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1209 AIR FORCE nominations (12) beginning DIANA ATWELL, and ending ANNE C. SPROUL, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1210 AIR FORCE nominations (16) beginning GERALD Q. BROWN, and ending LISA L. TURNER, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1211 AIR FORCE nominations (34) beginning MARK J. BATCHO, and ending DAVID J. ZEMKOSKY, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1212 AIR FORCE nominations (405) beginning TAREK C. ABBOUSHI, and ending JOHN J. ZIEGLER III, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1213 AIR FORCE nomination of Jeffrey J. Love, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1214 AIR FORCE nomination of Fritzjose E. Chandler, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1215 AIR FORCE nomination of Jose F. Eduardo, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1216 AIR FORCE nominations (64) beginning DARWIN L. ALBERTO, and ending AMY S. WOOSLEY, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1231 AIR FORCE nomination of Julie K. Stanley, which was received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1232 AIR FORCE nominations (10) beginning JOHN JULIAN ALDRIDGE III, and ending SUSAN L. SIEGMUND, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1233 AIR FORCE nominations (16) beginning ISIDRO ACOSTA CARDENO, and ending LARRY A. WOODS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1234 AIR FORCE nominations (19) beginning EVELYN L. BYARS, and ending SHERALYN A. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1235 AIR FORCE nominations (24) beginning RONALD A. ABBOTT, and ending JOSE VILLALOBOS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1236 AIR FORCE nominations (43) beginning DALE R. AGNER, and ending DAVID A. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1237 AIR FORCE nominations (213) beginning MARK ROBERT ACKERMANN, and ending SHEILA ZUEHLKE, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1238 AIR FORCE nominations (34) beginning JAVIER A. ABREU, and ending KYLE S. WENDFELDT, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1239 AIR FORCE nominations (139) beginning ERIC J. ASHMAN, and ending KENNETH C. Y. YU, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1254 AIR FORCE nominations (28) beginning BRUCE S. ABE, and ending ANN E. ZIONIC, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1255 AIR FORCE nominations (280) beginning STEVEN J. ACEVEDO, and ending

STEVEN R. ZIEBER, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

THE ARMY

PN1106 ARMY nominations (33) beginning ROBERTO C. ANDUJAR, and ending KENNETH A. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1107 ARMY nominations (69) beginning CRAIG J. AGENA, and ending JOHN S. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1108 ARMY nominations (56) beginning DANIEL G. AARON, and ending MARILYN D. WILLS, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1109 ARMY nominations (419) beginning WILLIAM G. ADAMSON, and ending x2451●, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1148 ARMY nomination of Michael J. Osburn, which was received by the Senate and appeared in the Congressional Record of December 20, 2005.

PN1149 ARMY nominations (2) beginning MARGARETT E. BARNES, and ending DAVID E. UPCHURCH, which nominations were received by the Senate and appeared in the Congressional Record of December 20, 2005.

PN1217 ARMY nominations (13) beginning JOHN W. ALEXANDER JR., and ending DONALD L. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1218 ARMY nominations (35) beginning SUSAN K. ARNOLD, and ending EVERETT F. YATES, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1219 ARMY nominations (26) beginning JAMES A. * AMYX JR., and ending SCOTT * WILLENS, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1220 ARMY nominations (62) beginning JOHN E. * ADRIAN, and ending DAVID A. * YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1221 ARMY nominations (151) beginning TIMOTHY S. * ADAMS, and ending PJ * ZAMORA, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1222 ARMY nominations (160) beginning JUDE M. * ABADIE, and ending JOHN D. * YEAW, which nominations were received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1240 ARMY nominations (3) beginning LISA R. LEONARD, and ending BRET A. SLATER, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1256 ARMY nominations (20) beginning MITCHELL S. ACKERSON, and ending GLENN R. WOODSON, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1293 ARMY nomination of Andrew H. N. Kim, which was received by the Senate and appeared in the Congressional Record of February 6, 2006.

PN1294 ARMY nominations (10) beginning RENDELL G. CHILTON, and ending DAVID J. OSINSKI, which nominations were received by the Senate and appeared in the Congressional Record of February 6, 2006.

IN THE FOREIGN SERVICE

PN1112 FOREIGN SERVICE nominations (149) beginning Anne Elizabeth Linnee, and ending Kathleen Anne Yu, which nominations were received by the Senate and appeared in the Congressional Record of December 13, 2005.

PN1118 FOREIGN SERVICE nominations (300) beginning Lisa M. Anderson, and ending Gregory C Yemm, which nominations were received by the Senate and appeared in the Congressional Record of December 14, 2005.

IN THE MARINE CORPS

PN1224 MARINE CORPS nomination of Brian R. Lewis, which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1225 MARINE CORPS nomination of William A. Kelly Jr., which was received by the Senate and appeared in the Congressional Record of January 27, 2006.

PN1245 MARINE CORPS nomination of Phillip R. Wahle, which was received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1246 MARINE CORPS nomination of James A. Croffie, which was received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1247–1 MARINE CORPS nominations (337) beginning JAMES H. ADAMS III, and ending RICHARD D. ZYLA, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1248 MARINE CORPS nominations (6) beginning DAVID T. CLARK, and ending NIEVES G. VILLASENOR, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2006.

PN1258 MARINE CORPS nominations (2) beginning RALPH P. HARRIS III, and ending CHARLES L. THRIFT, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1260 MARINE CORPS nominations (3) beginning STEPHEN J. DUBOIS, and ending JOHN D. PAULIN, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1261 MARINE CORPS nominations (2) beginning JAY A. ROGERS, and ending STANLEY M. WEEKS, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1262 MARINE CORPS nominations (2) beginning SEAN P. HOSTER, and ending TIMOTHY D. WHEELER, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1263 MARINE CORPS nominations (2) beginning NEIL G. ANDERSON, and ending EDWARD M. MOEN JR., which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1264 MARINE CORPS nominations (2) beginning CARL BAILEY JR., and ending JAMES A. JONES, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1265 MARINE CORPS nominations (2) beginning GREGORY M. GOODRICH, and ending MARK W. WASCOM, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1267 MARINE CORPS nominations (3) beginning JACK G. ABATE, and ending JAMES KOLB, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1269 MARINE CORPS nominations (4) beginning PETER G. BAILIFF, and ending TIMOTHY D. SECHREST, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1270 MARINE CORPS nominations (5) beginning ISRAEL GARCIA, and ending JAMES I. SAYLOR, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1271 MARINE CORPS nominations (5) beginning BEN A. CACIOPPO JR., and ending WALTER D. ROMINE JR., which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1272 MARINE CORPS nominations (5) beginning PETER M. BARACK JR., and ending JOHN D. SOMICH, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

PN1273–1 MARINE CORPS nominations (593) beginning BENJAMIN J. ABBOTT, and ending RUTH A. ZOLOCK, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2006.

IN THE NAVY

PN1157 NAVY nominations (19) beginning CHRISTOPHER P. BOBB, and ending VINCENT J. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of December 21, 2005.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the en bloc consideration of three Senate resolutions which were submitted earlier today.

The PRESIDING OFFICER. The clerk will please report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 374) to authorize testimony, document production, and legal representation in United States of America v. David Hossein Safavian.

A resolution (S. Res. 375) to authorize testimony and legal representation in State of New Hampshire v. William Thomas, Keta C. Jones, John Francis Bopp, Michael S. Franklin, David Van Strein, Guy Chichester, Jamilla El-Shafei, and Ann Isenberg.

A resolution (S. Res. 376) to authorize representation by the Senate Legal Counsel in the case of Keyter v. McCain, et al.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 374) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 374

Whereas, in the case of United States of America v. David Hossein Safavian, Crim. No. 05–370, pending in the United States District Court for the District of Columbia, testimony and documents have been requested from Bryan D. Parker, an employee on the staff of the Committee on Indian Affairs;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of

1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved that Bryan D. Parker, and any other employee of the Committee on Indian Affairs from whom testimony or the production of documents may be required, are authorized to testify and produce documents in the case of United States of America v. David Hossein Safavian, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Bryan D. Parker, and any other Members, officers, or employees of the Senate, in connection with the testimony and document production authorized in section one of this resolution.

The resolution (S. Res. 375) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 375

Whereas, in the cases of State of New Hampshire v. William Thomas (C–05–49153–AR), Keta C. Jones (C–05–49153–A–AR), John Francis Bopp (C–05–49153–B–AR), Michael S. Franklin (C–05–49153–C–AR), David Van Strein (C–05–49153–D–AR), Guy Chichester (C–05–49153–E–AR), Jamilla El-Shafei (C–05–49153–F–AR), and Ann Isenberg (C–05–49153–G–AR), pending in Concord District Court, New Hampshire, testimony has been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony may be required are authorized to testify in the cases of State of New Hampshire v. William Thomas, Keta C. Jones, John Francis Bopp, Michael S. Franklin, David Van Strein, Guy Chichester, Jamilla El-Shafei, and Ann Isenberg, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony authorized in section one of this resolution.

The resolution (S. Res. 376) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 376

Whereas, pursuant to Senate Resolution 213, 109th Congress, the Senate Legal Counsel is currently representing Senators John McCain and Jon Kyl in the case of Keyter v. McCain, et al., filed in the United States District Court for the District of Arizona, Civ. No. 05–1923–PHX–DGC;

Whereas, the plaintiff filed an amended complaint naming Senators Bill Frist, Joseph I. Lieberman, Mitch McConnell, Rick Santorum, and Ted Stevens as additional defendants in the action;

Whereas the District Court dismissed the action for lack of jurisdiction and for failure to state a claim upon which relief may be granted;

Whereas the plaintiff has appealed the dismissal of the action to the United States Court of Appeals for the Ninth Circuit; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senators Bill Frist, Joseph I. Lieberman, Mitch McConnell, Rick Santorum, and Ted Stevens in the case of Keyter v. McCain, et al.

HONORING THE LIFE OF DR. NORMAN SHUMWAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 377, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 377) honoring the life of Dr. Norman Shumway and expressing the condolences of the Senate on his passing.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, S. Res. 377 is the resolution honoring the life of Dr. Norman Shumway and expressing condolences on behalf of this body.

I wish to pay tribute to a medical pioneer, a man who inaugurated a new era of medicine, my mentor in surgery and friend. Sadly, Dr. Shumway passed away late last week at the age of 83. He left behind a legacy as an inspirational leader, a healer, a guiding spirit who made my own professional field of heart transplants a reality. When all those around him said it was impossible, said it was a pipe dream, said it couldn't be done, his vision and his determination and his unrelenting commitment and pioneer attitude has saved thousands and thousands of lives.

I had the distinct honor of studying under the tutelage of Dr. Shumway at Stanford University Medical Center in the early 1980s. I witnessed his rare gifts. Those gifts included a blend of long-term thinking, a love of medicine and healing, and a true pioneering spirit that inspired and attracted like-minded individuals from across the country and, indeed, around the world.

He was fond of remarking that his role as a surgeon was comparable to that of being the world's greatest first surgical assistant in the operating room. When you are treating a patient, when you are operating on a patient, the surgeon stands on one side of the table and the first assistant across the way on the other side. It is that image of Dr. Shumway, on the other side, instructing, teaching, cultivating that expertise in the young surgeon, that stands out most vividly in my mind, the constant cajoling and instructing in very gentle, humble ways, the certainty of that guiding hand which would reach over if there was a slightly wrong move or a hesitant move that was made. I think his comment about being the world's greatest first assistant reflects that humility but also that comfort level and that competence that, coupled with his pioneering spirit, has proved to be revolutionary in the field of medicine and surgery. Now his humble, yet visionary, work is reflected in surgical programs all over the world because he was that first assistant, as he instructed and taught and inspired. Those surgeons he trained are now literally populating academic and clinical programs all over this country and indeed throughout the world. He loved his role as healer, and he cherished the opportunity not only to operate and to innovative but to inspire and to plant seeds, all a part of his mode of inspirational teaching.

I have worked with a lot of cardiac surgeons, heart surgeons, in programs around the world, including Boston, MA, over in England, out on the west coast, down in the South at Vanderbilt and, more than anybody I interacted with over the 20 years I have spent in medicine, Dr. Shumway was the one, was the single one, who had the broadest, as well as the deepest, influence because of his unparalleled commitment to teaching in an inspirational way that encouraged others to go out and teach and to spread the word and to spread the technique and to spread what he indeed pioneered: heart transplantation, lung transplantation, heart-lung transplantation.

He was a brilliant man, a pioneering spirit. Yet he was always accessible. He was always there on rounds. He believed in the team approach, of relying on the technician running the heart-lung machine, relying on the nurses who, with him, made rounds each morning and each evening to see his patients.

His teachings were filled with turns of phrases and catchy one-liners and, in my own mind, as I stand here and recall listening to him, he would say things such as: Never be afraid to double dribble. I think about it a lot because what he was saying was if that first stitch you are about ready to put in isn't perfect, put in another stitch; don't be so bold, don't be so confident,

don't be so cocky, where if you have a question you don't make absolutely sure that something is perfect. Never be afraid to double dribble.

Dr. Shumway looked for somebody who had the passion for healing, and he would encourage their active pursuits. It is almost as if he had a sixth sense, both for inspiration but also in recognizing in others an ability or a desire to be innovative, to create, to think outside of the box in order to benefit humanity.

He considered it part of his mission to nurture and cultivate his trainees' ambition and their drive and their desire. It didn't matter what your age was. It didn't matter what schools you had gone to. It didn't matter whether you were a first-year resident, an intern, or a fifth-year resident; if you had a good idea, if you had a creative idea, he would nurture it and he would put an environment around you to allow that idea to grow, to prove itself, to go down in defeat. He would even set up a laboratory around an intern or a first-year resident who had a creative idea that he thought just may work.

It was a very different mentality than most people in his field of surgery in medicine. The traditional medical establishment, as I mentioned earlier, thought heart transplantation could never be done. Yet that sort of ''a little bit out of the box'' thinking, that pioneering spirit, did inspire some of the great innovations in medicine in the 20th century: Heart transplants, which he is known for, with the first successful heart transplant in our country—it came at the era I was there—the combined heart-lung transplant, where essentially you remove all of the organs from the top of the chest down to the diaphragm, taking that heart-lung out to transplant and repair and to have it replaced to give life to individuals with otherwise fatal diseases; the early work with left ventricular assist devices; the invention of the cardiac biopsy, where the catheter is inserted through the neck and you can actually sample pieces of the heart with a technique that takes literally about 2 or 3 minutes but allows you to determine whether a patient is rejecting that heart or has inflammation of that heart; the immunosuppressive protocols which made heart transplantation possible. These were all pioneering fields he jumped into, that he created, that he explored, and he did so with a disciplined approach, a scientific approach, an approach characterized by perseverance over a long period of time, in spite of a lot of people questioning and putting forth doubts as he went forward.

In talking to a number of people who asked about this man and what his contributions have been, it has come to my attention, as I reflect upon it, that he has also encouraged people to go out and explore new fields. Some of the cardiac surgeons he trained—one went into public service for a period of time, but others went on to become lawyers, to become heads of the great universities of the country and, indeed of the world. Given the unique type of drive that inspired a person to study with Dr. Shumway, it is probably not all that unexpected because he did encourage people to figure out what their strengths were and how they could better humanity—whether it is the scientist in the laboratory, whether it is the clinical surgeon, whether it is the academic surgeon, whether it is the lawyer who ultimately best understood the delivery of health care and went off to participate in legal aspects of health care today.

He also encouraged people to take risks, and to take risks in a very positive way, because if people did not work outside of their comfort zone he felt progress could never be made. But encouraging people to take those risks, he did so with science, with a strong foundation, with a good understanding of what limitations are, with a strong understanding of cost and risk and benefits. But that element of risk taking, calculated risk taking, is a legacy he has left many of us, and many of the people who have trained with him—thinking and saying and believing that is the only way progress in society takes place.

Dr. Shumway was a legend in his field and his presence will be sorely missed. As I look back, I would never have had that blessing, and it is a blessing, to be able to transplant the human heart and I would have never transplanted a human heart if I had not had the opportunity to study under Dr. Norman Shumway. I would have never in my life been able to transplant the human lung, to give life to people who have an otherwise fatal disease, if I had not trained with and studied under Dr. Norman Shumway. I would have never put in any left ventricular assist devices for struggling, ailing hearts when people have had massive heart attacks. I would have never been able to do neonatal transplants on little infants. I mention those only because without that man and his vision, his philosophy of conceiving something and believing in it and doing it, it would have affected my life greatly. Indeed, in all likelihood I would not be on the floor of the Senate today if I had not had that exposure to Dr. Norman Shumway.

Having had the honor of working with him, he was an inspirational leader. He was the guiding light who seemed to be able to pull it all together with his vision and with his determination and his dedication. He has affected the lives of thousands and indeed hundreds of thousands of people through his teaching and through his training around the world.

He was my mentor, he was a great surgeon and a true friend, and someone I will miss dearly.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 377) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 377

Whereas Norman Shumway was an inspirational leader and medical pioneer;

Whereas Dr. Norman Shumway performed the first successful heart transplant in the United States, and was considered the father of heart transplantation in America;

Whereas Dr. Norman Shumway's seminal work with Dr Richard Lower at Stanford Medical Center set in motion the longest and most successful clinical cardiac transplant program in the world;

Whereas Dr. Norman Shumway co-edited a definitive book on thoracic organ transplantation along with his daughter who is also a cardiac surgeon;

Whereas Dr. Norman Shumway continued to research the medical complexities of heart transplants when many were abandoning the procedure because of poor outcomes due to rejection;

Whereas Dr. Norman Shumway trained hundreds of surgeons who have gone on to lead academic and clinical cardiac surgical programs around the world;

Whereas Dr. Norman Shumway served our country in the United States Army from 1943 to 1946, and in the United States Air Force from 1951 to 1953;

Whereas Dr. Norman Shumway earned his medical degree from Vanderbilt University in 1949, and his doctorate from the University of Minnesota in 1956;

Whereas Dr. Norman Shumway was awarded with numerous honorary degrees by his peers, including the American Medical Association's Scientific Achievement Award and the Lifetime Achievement Award of the International Society for Heart and Lung Transplantation;

Whereas Dr. Norman Shumway is survived by his son, Michael, and three daughters, Amy, Lisa and Sara, and his former wife, Mary Lou; and

Whereas Dr. Norman Shumway has left a legacy of life around the world thanks to his tireless work of understanding and perfecting heart transplantation: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the loss of Dr. Norman Shumway;

(2) recognizes his contribution to medical science and discovery;

(3) expresses its sympathies to the family of Dr. Norman Shumway; and

(4) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Dr. Norman Shumway.

NATIONAL MPS AWARENESS DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 378, which was submitted earlier.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 378) designating February 25, 2006, as ''National MPS Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the

preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 378) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 378

Whereas Mucopolysaccharidosis (referred to in this preamble as ''MPS'') is a genetically determined lysosomal storage disorder that renders the human body incapable of producing certain enzymes needed to breakdown complex carbohydrates;

Whereas complex carbohydrates are then stored in almost every cell in the body and progressively cause damage to those cells;

Whereas the cell damage adversely affects the human body by damaging the heart, respiratory system, bones, internal organs, and central nervous system;

Whereas the cellular damage caused by MPS often results in mental retardation, short stature, corneal damage, joint stiffness, loss of mobility, speech and hearing impairment, heart disease, hyperactivity, chronic respiratory problems, and, most importantly, a drastically shortened life span;

Whereas the nature of the disorder is usually not apparent at birth;

Whereas without treatment, the life expectancy of an individual afflicted with MPS begins to decrease at a very early stage in the life of the individual;

Whereas recent research developments have resulted in the creation of limited treatments for some MPS disorders;

Whereas promising advancements in the pursuit of treatments for additional MPS disorders are underway;

Whereas, despite the creation of newly developed remedies, the blood brain barrier continues to be a significant impediment to effectively treating the brain, thereby preventing the treatment of many of the symptoms of MPS;

Whereas treatments for MPS will be greatly enhanced with continued public funding;

Whereas the quality of life for individuals afflicted with MPS, and the treatments available to them, will be enhanced through the development of early detection techniques and early intervention;

Whereas treatments and research advancements for MPS are limited by a lack of awareness about MPS disorders;

Whereas the lack of awareness about MPS disorders extends to those within the medical community;

Whereas the damage that is caused by MPS makes it a model for many other degenerative genetic disorders;

Whereas the development of effective therapies and a potential cure for MPS disorders can be accomplished by increased awareness, research, data collection, and information distribution;

Whereas the Senate is an institution than can raise public awareness about MPS; and

Whereas the Senate is also an institution that can assist in encouraging and facilitating increased public and private sector research for early diagnosis and treatments of MPS disorders: Now, therefore, be it

Resolved, That the Senate—

(1) designates February 25, 2006, as ''National MPS Awareness Day''; and

(2) supports the goals and ideals of ''National MPS Awareness Day''.

NASCAR-HISTORICALLY BLACK COLLEGES AND UNIVERSITIES CONSORTIUM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 379, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 379) recognizing the creation of the NASCAR-Historically Black Colleges and Universities Consortium.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 379) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 379

Whereas the Bureau of Labor Statistics reports that, while there are 1,300,000 automotive technicians currently employed, industry figures confirm that an additional 50,000 technicians are needed to fill open positions each year;

Whereas the National Automotive Dealers Association reports that 57 percent of the operating profit of automotive dealers is generated by the parts and service departments of automotive dealers;

Whereas the findings of the National Automotive Dealers Association reveal that dealers consider it difficult to locate qualified technicians;

Whereas 42 percent of all dealer technicians have been engaged in that line of work for less than 1 year;

Whereas the National Association for Stock Car Auto Racing, Inc. (referred to in this preamble as ''NASCAR''), the NASCAR Universal Technical Institute, and a collaboration of Historically Black Colleges and Universities (referred to in this preamble as ''HBCUs'') have agreed to create a consortium to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities, including automotive engineering and technology, automotive safety, sports marketing, and other automotive industry areas;

Whereas the NASCAR-HBCUs Consortium is establishing a formal plan to increase the number of quality job opportunities available to African American students within NASCAR in key racing and other related automotive business activities through the NASCAR Universal Training Institute and the NASCAR Diversity Internship Program;

Whereas NASCAR has agreed to enhance their identification of employment opportunities, including internships, full time jobs, entry level management positions, part-time jobs for college students, and post-graduate job placement for students pursuing undergraduate and graduate degrees at partner HBCUs;

Whereas the NASCAR-HBCUs Consortium has developed a program to increase the awareness, access, and participation of African American students in the NASCAR Universal Training Institute and NASCAR Diversity Internship Program for the racing and other related automotive industries; and

Whereas the NASCAR-HBCUs Consortium will seek opportunities to establish and enhance the funding of targeted job development activities by partner HBCUs, and generate support for the HBCUs in their efforts to enhance curriculum development in sports marketing, finance, human resource management, and other automotive industry areas: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the National Association for Stock Car Auto Racing, Inc. (referred to in this resolution as ''NASCAR''), the NASCAR Universal Technical Institute, and a collaboration of Historically Black Colleges and Universities (referred to in this resolution as ''HBCUs''), for their creation of a consortium to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities;

(2) commends HBCUs, including Alabama A&M University, Alabama State University, Bethune Cookman College, Howard University, North Carolina A&T University, Talladega College, and Winston-Salem State University, for their efforts to increase the number of quality job opportunities available to African American students in key racing and other related automotive business activities; and

(3) encourages the Departments of Education and Labor and other appropriate agencies of the Federal Government to provide suitable assistance and support to ensure the success of that effort.

CELEBRATING BLACK HISTORY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 380, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 380) celebrating Black History Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 380) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 380

Whereas the first African Americans were brought forcibly to the shores of America as early as the 17th century;

Whereas African Americans were enslaved in the United States and subsequently faced the injustices of lynch mobs, segregation, and denial of basic, fundamental rights;

Whereas in spite of these injustices, African Americans have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas in the face of these injustices, United States citizens of all races distinguished themselves in their commitment to the ideals on which the United States was founded, and fought for the rights of African Americans;

Whereas the greatness of the United States is reflected in the contributions of African Americans in all walks of life throughout the history of the United States, including through—

(1) the writings of Booker T. Washington, James Baldwin, Ralph Ellison, and Alex Haley;

(2) the music of Mahalia Jackson, Billie Holiday, and Duke Ellington;

(3) the resolve of athletes such as Jackie Robinson, Jesse Owens, and Muhammed Ali;

(4) the vision of leaders such as Frederick Douglass, Thurgood Marshall, and Martin Luther King, Jr.; and

(5) the bravery of those who stood on the front lines in the battle against oppression, such as Sojourner Truth and Rosa Parks;

Whereas the United States of America was conceived, as stated in the Declaration of Independence, as a new country dedicated to the proposition that ''all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness'';

Whereas United States citizens of all races demonstrate their commitment to that proposition through actions such as those of—

(1) Allan Pinkerton, Thomas Garrett, and the Rev. John Rankin, who served as conductors in the Underground Railroad;

(2) Harriet Beecher Stowe, who shined a light on the injustices of slavery;

(3) President Abraham Lincoln, who issued the Emancipation Proclamation, and Senator Lyman Trumbull, who introduced the 13th Amendment to the Constitution of the United States;

(4) President Lyndon B. Johnson, Chief Justice Earl Warren, Senator Mike Mansfield, and Senator Hubert Humphrey, who fought to end segregation and the denial of civil rights to African Americans; and

(5) Americans of all races who marched side-by-side with African Americans during the civil rights movement;

Whereas, since its founding, the United States has been an imperfect work in making progress towards those noble goals;

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach them but often failing, and then struggling to come to terms with the disappointment of that failure before recommitting themselves to trying again;

Whereas, from the beginning of our Nation, the most conspicuous and persistent failure of United States citizens to reach those noble goals has been the enslavement of African Americans and the resulting racism;

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas the Federal Government failed to put an end to slavery until the ratification of the 13th Amendment in 1865, repeatedly failed to enact a Federal anti-lynching law, and still struggles to deal with the evils of racism; and

Whereas the fact that 61 percent of African American 4th graders read at a below basic level and only 16 percent of native born African Americans have earned a Bachelor's degree, 50 percent of all new HIV cases are reported in African Americans, and the leading cause of death for African American males ages 15 to 34 is homicide, demonstrates that the United States continues to struggle to reach the high ideal of equal opportunity for all citizens of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the tragedies of slavery, lynching, and segregation, and condemns them as an infringement on human liberty and equal opportunity so that they will stand forever as a reminder of what can happen when the citizens of the United States fail to live up to their noble goals;

(2) honors those United States citizens who—

(A) risked their lives during the time of slavery, lynching, and segregation in the Underground Railroad and in other efforts to assist fugitive slaves and other African Americans who might have been targets and victims of lynch mobs; and

(B) those who have stood beside African Americans in the fight for equal opportunity that continues to this day;

(3) reaffirms its commitment to the founding principles of the United States of America that ''all Men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness'';

(4) commits itself to addressing those situations in which the African American community struggles with disparities in education, health care, and other areas where the Federal Government can help improve conditions for all citizens of the United States; and

(5) calls on the citizens of the United States to observe Black History Month with appropriate programs, ceremonies, and activities.

Mr. FRIST. Mr. President, on S. Res. 380, I ask unanimous consent that I be added as a cosponsor, if I am not currently one.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2320

Mr. FRIST. Mr. President, I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2320) to make available funds included in the Deficit Reduction Act of 2005 for the Low Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

Mr. FRIST. Mr. President, I ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XXIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR FRIDAY, FEBRUARY 17, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Friday, February 17. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that Senator SALAZAR then be recognized to deliver George Washington's Farewell Address, as under the previous order. I further ask that following the address, the Senate stand in recess subject to the call of the Chair, and that when the Senate reconvenes, there be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today, by a vote of 96 to 3, the Senate voted overwhelmingly to proceed to the PATRIOT Act Amendments Act. I am disappointed that the other side of the aisle has forced us to spend these extra days, several extra days to get on to this bill.

Under the agreement that was reached last night, I want to remind my colleagues that a cloture vote on the bill will occur at 2:30 p.m. on Tuesday, February 28, and then we will have a vote on final passage at 10 a.m., March 1.

Tomorrow we will be in session, but there will be no rollcall votes. We have some outstanding legislative items to complete before the Presidents Day recess next week, so we will be in session and working tomorrow, Friday.

In Senate tradition tomorrow, we will also hear Washington's Farewell Address which will be read by Senator SALAZAR when the Senate convenes.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:28 p.m., adjourned until Friday, February 17, 2006, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, February 16, 2006:

DEPARTMENT OF STATE

BERNADETTE MARY ALLEN, OF MARYLAND, TO BE AMBASSADOR TO THE REPUBLIC OF NIGER.

JANICE L. JACOBS, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF SENEGAL, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR TO THE REPUBLIC OF GUINEA-BISSAU.

STEVEN ALAN BROWNING, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR TO THE REPUBLIC OF UGANDA.

PATRICIA NEWTON MOLLER, OF ARKANSAS, TO BE AMBASSADOR TO THE REPUBLIC OF BURUNDI.

JEANINE E. JACKSON, OF WYOMING, TO BE AMBASSADOR TO BURKINA FASO.

KRISTIE A. KENNEY, OF VIRGINIA, TO BE AMBASSADOR TO THE REPUBLIC OF THE PHILIPPINES.

ROBERT WEISBERG, OF MARYLAND, TO BE AMBASSADOR TO THE REPUBLIC OF CONGO.

JANET ANN SANDERSON, OF ARIZONA, TO BE AMBASSADOR TO THE REPUBLIC OF HAITI.

JAMES D. MCGEE, OF FLORIDA, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR TO THE UNION OF COMOROS.

GARY A. GRAPPO, OF VIRGINIA, TO BE AMBASSADOR TO THE SULTANATE OF OMAN.

PATRICIA A. BUTENIS, OF VIRGINIA, TO BE AMBASSADOR TO THE PEOPLE'S REPUBLIC OF BANGLADESH.

DONALD T. BLISS, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

CLAUDIA A. MCMURRAY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS.

BRADFORD R. HIGGINS, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF STATE (RESOURCE MANAGEMENT).

BRADFORD R. HIGGINS, OF CONNECTICUT, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE.

JACKIE WOLCOTT SANDERS, OF VIRGINIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

JACKIE WOLCOTT SANDERS, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES SENIOR OFFICIAL TO THE ASIA-PACIFIC ECONOMIC COOPERATION FORUM.

INTERNATIONAL MONETARY FUND

BEN S. BERNANKE, OF NEW JERSEY, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

TERRENCE L. BRACY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2010.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD F. SAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL DAVID L. FROSTMAN
BRIGADIER GENERAL JAMES W. GRAVES
BRIGADIER GENERAL LINDA S. HEMMINGER
BRIGADIER GENERAL JOHN M. HOWLETT
BRIGADIER GENERAL HAROLD L. MITCHELL
BRIGADIER GENERAL HANFERD J. MOEN, JR.
BRIGADIER GENERAL WILLIAM M. RAJCZAK
BRIGADIER GENERAL DAVID N. SENTY
BRIGADIER GENERAL ERIKA C. STEUTERMAN

To be brigadier general

COLONEL JOHN M. ALLEN
COLONEL ROBERT E. BAILEY, JR.
COLONEL ERIC W. CRABTREE
COLONEL DEAN J. DESPINOY
COLONEL WALLACE W. FARRIS, JR.
COLONEL JOHN C. FOBIAN
COLONEL THOMAS W. HARTMANN
COLONEL JAMES R. HOGUE
COLONEL MARK A. KYLE
COLONEL CAROL A. LEE
COLONEL JON R. SHASTEEN
COLONEL ROBERT O. TARTER
COLONEL HOWARD N. THOMPSON
COLONEL CHRISTINE M. TURNER
COLONEL PAUL M. VAN SICKLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. GLENN F. SPEARS

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DENNIS G. LUCAS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE POSITION AND GRADE INDICATED UNDER TITLED 10, U.S.C., SECTION 8037:

To be judge advocate general of the United States Air Force

MAJ. GEN. JACK L. RIVES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. STEVEN J. LEPPER

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MALINDA E. DUNN
COL. CLYDE J. TATE III

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RICHARD G. MAXON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL MICHAEL D. BARBERO
BRIGADIER GENERAL SALVATORE F. CAMBRIA
BRIGADIER GENERAL JOHN M. CUSTER III
BRIGADIER GENERAL RICHARD P. FORMICA
BRIGADIER GENERAL DAVID P. FRIDOVICH
BRIGADIER GENERAL KATHLEEN M. GAINEY
BRIGADIER GENERAL WILLIAM T. GRISOLI
BRIGADIER GENERAL CARTER F. HAM
BRIGADIER GENERAL JEFFERY W. HAMMOND
BRIGADIER GENERAL FRANK G. HELMICK
BRIGADIER GENERAL PAUL S. IZZO
BRIGADIER GENERAL FRANCIS H. KEARNEY III
BRIGADIER GENERAL STEPHEN R. LAYFIELD
BRIGADIER GENERAL ROBERT P. LENNOX
BRIGADIER GENERAL WILLIAM H. MCCOY, JR.
BRIGADIER GENERAL TIMOTHY P. MCHALE
BRIGADIER GENERAL JOHN W. MORGAN III
BRIGADIER GENERAL MICHAEL L. OATES
BRIGADIER GENERAL ROBERT M. RADIN
BRIGADIER GENERAL CURTIS M. SCAPARROTTI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE RANK INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. THOMAS F. METZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID P. VALCOURT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. RAYMOND T. ODIERNO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STANLEY A. MCCHRYSTAL

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL RONALD L BAILEY
COLONEL MICHAEL M BROGAN
COLONEL JON M DAVIS
COLONEL TIMOTHY C HANIFEN
COLONEL JAMES A KESSLER
COLONEL JAMES B LASTER
COLONEL ANGELA SALINAS
COLONEL PETER J TALLERI
COLONEL JOHN A TOOLAN, JR
COLONEL ROBERT S WALSH

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ROBERT T. CONWAY, JR.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH JAMES C. AULT AND ENDING WITH MARYANNE C. YIP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2005.

AIR FORCE NOMINATION OF BARBARA A. HILGENBERG TO BE COLONEL.

AIR FORCE NOMINATION OF EVELYN S. GEMPERLE TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN W. AYRES, JR. AND ENDING WITH ALAN E. JOHNSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID HARRISION BURDETTE AND ENDING WITH DOMINIC O. UBAMADU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH KAREN MARIE BACHMANN AND ENDING WITH MARY V. LUSSIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH RAYMOND L. HAGAN, JR. AND ENDING WITH WILLIAM H. WILLIS, SR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH RUSSELL G. BOESTER AND ENDING WITH RICHARD T. SHELTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH DIANA ATWELL AND ENDING WITH ANNE C. SPROUL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH GERALD Q. BROWN AND ENDING WITH LISA L. TURNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH MARK J. BATCHO AND ENDING WITH DAVID J. ZEMKOSKY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH TAREK C. ABBOUSHI AND ENDING WITH JOHN J. ZIEGLER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATION OF JEFFREY J. LOVE TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF FRITZJOSE E. CHANDLER TO BE MAJOR.

AIR FORCE NOMINATION OF JOSE F. EDUARDO TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH DARWIN L. ALBERTO AND ENDING WITH AMY S. WOOSLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

AIR FORCE NOMINATION OF JULIE K. STANLEY TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH JOHN JULIAN ALDRIDGE III AND ENDING WITH SUSAN L. SIEGMUND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH ISIDRO ACOSTA CARDENO AND ENDING WITH LARRY A. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH EVELYN L. BYARS AND ENDING WITH SHERALYN A. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH RONALD A. ABBOTT AND ENDING WITH JOSE VILLALOBOS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH DALE R. AGNER AND ENDING WITH DAVID A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH MARK ROBERT ACKERMANN AND ENDING WITH SHEILA ZUEHLKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH JAVIER A. ABREU AND ENDING WITH KYLE S. WENDFELDT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH ERIC J. ASHMAN AND ENDING WITH KENNETH C. Y. YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH BRUCE S. ABE AND ENDING WITH ANN E. ZIONIC, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

AIR FORCE NOMINATIONS BEGINNING WITH STEVEN J. ACEVEDO AND ENDING WITH STEVEN R. ZIEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH ROBERTO C. ANDUJAR AND ENDING WITH KENNETH A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATIONS BEGINNING WITH CRAIG J. AGENA AND ENDING WITH JOHN S. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATIONS BEGINNING WITH DANIEL G. AARON AND ENDING WITH MARILYN D. WILLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATIONS BEGINNING WITH WILLIAM G. ADAMSON AND ENDING WITH X2451□, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

ARMY NOMINATION OF MICHAEL J. OSBURN TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH MARGARETT E. BARNES AND ENDING WITH DAVID E. UPCHURCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 20, 2005.

ARMY NOMINATIONS BEGINNING WITH JOHN W. ALEXANDER, JR. AND ENDING WITH DONALD L. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH SUSAN K. ARNOLD AND ENDING WITH EVERETT F. YATES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH JAMES A. AMYX, JR. AND ENDING WITH SCOTT WILLENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH JOHN E. ADRIAN AND ENDING WITH DAVID A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH TIMOTHY S. ADAMS AND ENDING WITH PJ ZAMORA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH JUDE M. ABADIE AND ENDING WITH JOHN D. YEAW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 27, 2006.

ARMY NOMINATIONS BEGINNING WITH LISA R. LEONARD AND ENDING WITH BRET A. SLATER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

ARMY NOMINATIONS BEGINNING WITH MITCHELL S. ACKERSON AND ENDING WITH GLENN R. WOODSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

ARMY NOMINATION OF ANDREW H. N. KIM TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH RENDELL G. CHILTON AND ENDING WITH DAVID J. OSINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 6, 2006.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH ANNE ELIZABETH LINNEE AND ENDING WITH KATHLEEN ANNE YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 13, 2005.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LISA M. ANDERSON AND ENDING WITH GREGORY C. YEMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 14, 2005.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF BRIAN R. LEWIS TO BE MAJOR.

MARINE CORPS NOMINATION OF WILLIAM A. KELLY, JR. TO BE CHIEF WARRANT OFFICER W4.

MARINE CORPS NOMINATION OF PHILLIP R. WAHLE TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF JAMES A. CROFFIE TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH JAMES H. ADAMS III AND ENDING WITH RICHARD D. ZYLA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH DAVID T. CLARK AND ENDING WITH NIEVES G. VILLASENOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH RALPH P. HARRIS III AND ENDING WITH CHARLES L. THRIFT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH STEPHEN J. DUBOIS AND ENDING WITH JOHN D. PAULIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH JAY A. ROGERS AND ENDING WITH STANLEY M. WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH SEAN P. HOSTER AND ENDING WITH TIMOTHY D. WHEELER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH NEIL G. ANDERSON AND ENDING WITH EDWARD M. MOEN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH CARL BAILEY, JR. AND ENDING WITH JAMES A. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH GREGORY M. GOODRICH AND ENDING WITH MARK W. WASCOM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH JACK G. ABATE AND ENDING WITH JAMES KOLB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH PETER G. BAILIFF AND ENDING WITH TIMOTHY D. SECHREST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH ISRAEL GARCIA AND ENDING WITH JAMES I. SAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH BEN A. CACIOPPO, JR. AND ENDING WITH WALTER D. ROMINE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH PETER M. BARACK, JR. AND ENDING WITH JOHN D. SOMICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

MARINE CORPS NOMINATIONS BEGINNING WITH BENJAMIN J. ABBOTT AND ENDING WITH RUTH A. ZOLOCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2006.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH CHRISTOPHER P. BOBB AND ENDING WITH VINCENT J. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 21, 2005.